PERSONAL INJURY PROTECTION PLAN REVIEW

Presented by:
Saskatchewan Government Insurance

To:
Personal Injury Protection Plan Review Committee

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SECTION I – PERSONAL INJURY PROTECTION PLAN OVERVIEW

In 1995, Saskatchewan's compensation plan for Saskatchewan residents injured in motor vehicle crashes due to an auto crash was redesigned. The Personal Injury Protection Plan (PIPP) was introduced in January 1995 to meet three major goals:

- **Improve injury benefits** – compared to other Canadian jurisdictions, injury benefits were increasingly inadequate for those not able to sue for additional compensation. Prior to 1995, medical and rehabilitation coverage, for example, was limited to $10,000 and income replacement benefits for long-term seriously injured persons were limited to $200 per week. These benefits were not indexed to inflation. At the same time, injury costs overall were becoming increasingly prohibitive. PIPP ensures all those injured in auto collisions have access to adequate benefits.

- **Enhance fairness** – prior to 1995, people with similar injuries received quite different compensation depending on who was responsible for the accident. In 1992, only 8% of injury costs was spent on rehabilitation with 22% spent on income replacement. The remaining 70% was spent on pain and suffering. Under PIPP, spending has been reallocated, directing the majority of dollars toward improving the health-related quality of life of persons injured in crashes, while protecting them against major economic loss. In 1999, 36% of injury claim costs was spent on medical and rehabilitation and 31% was spent on income replacement.

- **Stabilize injury claim costs** – on a loss year basis, injury liability costs had risen from $89 million in 1990 to over $148 million by 1994. The introduction of PIPP has stabilized injury costs. Over the period 1990 to 1994, the average increase in injury liability costs (tort) was 14% annually. Since 1995, the average increase in PIPP costs has been 5% annually.

The introduction of no-fault injury benefits represented a fundamental shift in the compensation plan for individuals injured in a crash. (See Section III for more detail on types of injury compensation plans.)

The Auto Fund is guided by the following principles in administering the program:
- **Universality** – any Saskatchewan resident injured in a vehicle crash in Canada or the United States is covered by the plan.
- **Compensation without fault** – benefits are paid regardless of who was at fault for the crash.
- **Compensation for economic loss** – benefits are paid to cover the real economic loss sustained by the injured person.
- **Indexation** – benefits are indexed to cover cost-of-living increases.
- **Health-related quality of life** – resources are dedicated to assisting injured persons to return to normal activities to the greatest extent possible as quickly as possible.

Each year, about 6,500 injury claims are filed in Saskatchewan. (See Section VI for detail on casualty collision trends and major contributing factors.) Although the number of injured persons is relatively small compared to Saskatchewan's population as a whole, the cost of providing injury benefits is significant, at close to 41% of annual premium revenue. Furthermore, the design of the injury plan has a profound effect on the health and recovery of persons injured in vehicle crashes.

The Auto Fund (see Section IV for more details on SGI Corporate Structure) has administered PIPP for five years and considers the plan to be fundamentally sound. The goals of the program have been met, but improvements should be considered.

Over the first five years of the program, the Auto Fund has tracked customer feedback and concerns, and has consulted with care providers about how the program could better serve the needs of those injured in auto collisions. It is putting forward 44 recommendations for improvements to PIPP. These recommendations fall into three broad categories:

- improving customer service;
- addressing under- and over-compensation issues; and
- improving fairness.

The recommendations are consistent with the original goals defined for the program and the fundamental principles that guide its administration.

The cost of implementing all 44 recommendations is an additional $4.2 million in claim costs annually. This represents 1.1% of total claim costs in 1999. The recommendations are affordable and will improve benefit levels in key areas to the point where Saskatchewan residents injured in motor vehicle collisions will be receiving the best injury benefits in the country.

IMPROVING BENEFITS

Benefit levels under tort (pre-1995)

Under any injury compensation system, there are limited funds available. Given this limitation, the compensation that is provided should be structured to achieve the maximum possible beneficial results for injured persons.

No-fault injury benefits under the tort system were inadequate. For example, medical and rehabilitation coverage was limited to $10,000, and income replacement benefits for long-term seriously injured persons were limited to $200 per week. These benefits were not indexed to keep pace with inflation. (See p.8 for comparison of benefits.)

These limited no-fault benefits were available to all Saskatchewan residents injured in an auto crash. In other words, all those injured had access to a certain level of benefits without suing an at-fault driver.

For a person not responsible for the injury, the amount of compensation largely depended on the amount of insurance carried by the motorist responsible for the crash. About 55% of Saskatchewan motorists carried only the basic $200,000 third-party liability coverage provided by the Auto Fund. The remainder carried additional extension coverage, either with SGI CANADA or another insurer.

In some cases, coverage above the no-fault benefits was unavailable because the injured person had no one to sue – either because he or she was at-fault for the collision, or because the collision was with wildlife, or due to some other factor where there was no other party to sue.

For those with very serious injuries and not responsible for the collision, the liability coverage carried by the at-fault driver was not always sufficient to cover all the costs associated with rehabilitation and recovery. Furthermore, in situations where more than one person was injured in a collision, all those injured and not at fault for the crash shared the amount of coverage available. In cases where the courts awarded amounts greater than the liability coverage available, injured persons were not always able to collect the full amount of the award, as they had to collect it directly from the at-fault driver/owner.

Most money paid out in benefits was paid directly to those who had been injured, for them to spend as they wished. The longer a person stayed injured, the larger their final settlement was likely to be, in many cases giving no financial incentive for injured persons to recover. Additionally, many rehabilitation programs available today did not exist prior to the implementation of PIPP.

Benefit levels under PIPP (post-1995)

Benefits for persons injured in automobile crashes were significantly changed with the introduction of PIPP in Saskatchewan.

As described in the introduction, the guiding principles underlying no-fault injury benefits in Saskatchewan are: universality, compensation without fault, compensation for economic loss, indexation and health-related quality of life.

In 2000, benefits include the following (indexed to rise with the cost-of-living):

- Rehabilitation and medical expenses are paid, to a maximum of $541,824, including personal and home care expenses to a maximum of $596 per week and child care expenses up to $433 per week.
- Income replacement benefits are paid, for life if necessary, to injured people who are unable to continue with employment, homemaking duties or education as a result of their injuries. People working at the time of the crash receive income replacement based on 90% of their annual net income, on maximum insurable earnings of $56,855. According to Statistics Canada data based on 1997 income tax returns, the current maximum insurable earnings of $56,855 would provide complete income replacement coverage for approximately 91% of Saskatchewan wage earners.
- When a person is killed in an auto collision, the surviving spouse is entitled to receive, for life, 50% of the income replacement benefit of the deceased. Benefits are also paid for dependent children. If the deceased had no spouse or dependants, the estate is paid $10,836. The plan also pays a funeral benefit of $5,419 to help offset funeral expenses for persons killed in a crash.
- Permanent impairment benefits are paid to persons who suffer permanent injuries in an automobile crash, to a maximum of $135,456.

If an injured person has actual economic losses above the benefits provided under PIPP, they are able to sue an at-fault driver to recover those losses. They cannot sue, however, for pain and suffering.

Comparison of benefits post- and pre-PIPP

PIPP – 2000	Tort – 1994
Rehabilitation: • $541,824 maximum for medical and rehabilitation expenses • includes $596/week maximum for personal and home care expenses, and $433/week maximum for child care	• $10,000 maximum
Income Replacement: • 90% of net income, to a maximum gross salary of $56,855/year • students receive a maximum of $14,087 for each school year missed; if disability continues past completion of school, income replacement commences • includes full-time, self-employed, part-time, temporary workers, seniors, unemployed, students and homemakers	• maximum $200/week for totally or permanently disabled people • maximum $150/week for two years for homemakers • maximum $75/week for those who do not qualify for either of the above benefits, if confined to bed, hospital or wheelchair
Death Benefits: • 50% of income replacement benefit of deceased person is paid to spouse for life, plus 5% for each dependent child until age 21 • $10,836 paid to the estate of a deceased person with no spouse or dependants • $32,509 allowance for education and training to dependent spouses • $5,419 funeral allowance	• $10,000 to the spouse or primary dependant • plus $1,500 per dependent child • $2,500 to the estate of a deceased person with no spouse or dependants
Permanent Injury: • maximum $135,456	• maximum $10,000
Indexing: • benefits indexed to Consumer Price Index	• benefits not indexed
Liability: • injured persons not at fault can sue for economic losses in excess of benefits provided • $200,000 liability coverage paid under plate insurance	• injured persons not at fault can sue for economic losses and pain and suffering in excess of benefits provided • $200,000 liability coverage paid under plate insurance

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Benefits provided under PIPP are among the best in Canada (see Section V, Comparison of Injury Benefits across Canada.).

Under PIPP, compensation is directed toward returning people to their normal activities as fully as possible and as quickly as possible, while protecting their financial status.

SGI is putting forward recommendations to improve these benefits, including:

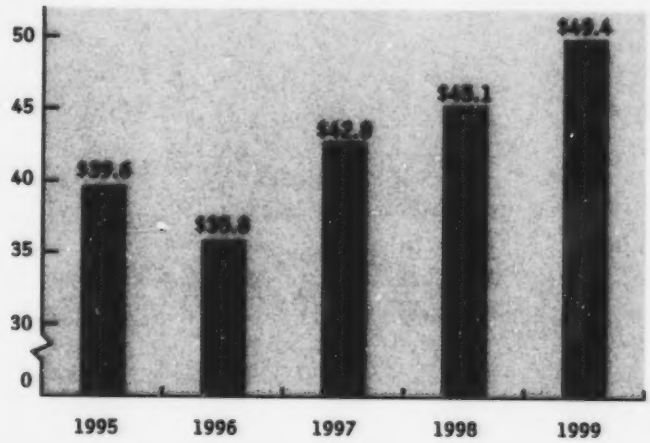
- doubling the maximum for the permanent impairment benefit to about $270,000, to provide more for those seriously injured in auto collisions; and
- removing the maximum on the medical and rehabilitation benefit, to ensure all medical and rehabilitation expenses for those injured in auto collisions are covered by the program.

See Section II for a full description of the recommendations.

Additional spending on rehabilitation

The major emphasis of PIPP is rehabilitation. The focus is on restoring health-related quality of life as fully as possible, and as quickly as possible. This is in direct contrast to the pre-1995 tort system which focussed on payment of pain and suffering awards rather than rehabilitation.

Medical and Rehabilitation Expenses
(millions of $)



A major focus of PIPP during its first five years has been to help pay for a variety of initiatives aimed at enhancing rehabilitation services and infrastructure in the province, including:

- $2 million for establishment of a tertiary level treatment center in Saskatoon, $1.8 million per year for its operating costs, and $1.7 million per year for operating costs of the tertiary centre in Regina; and
- $12.9 million for a three-year program to help people with acquired brain injuries (see page 11).

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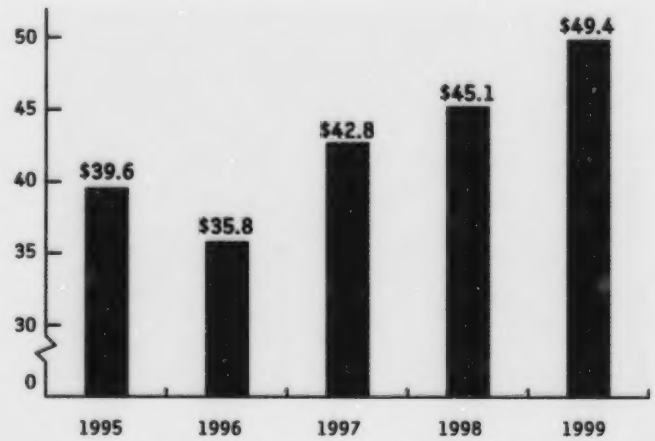

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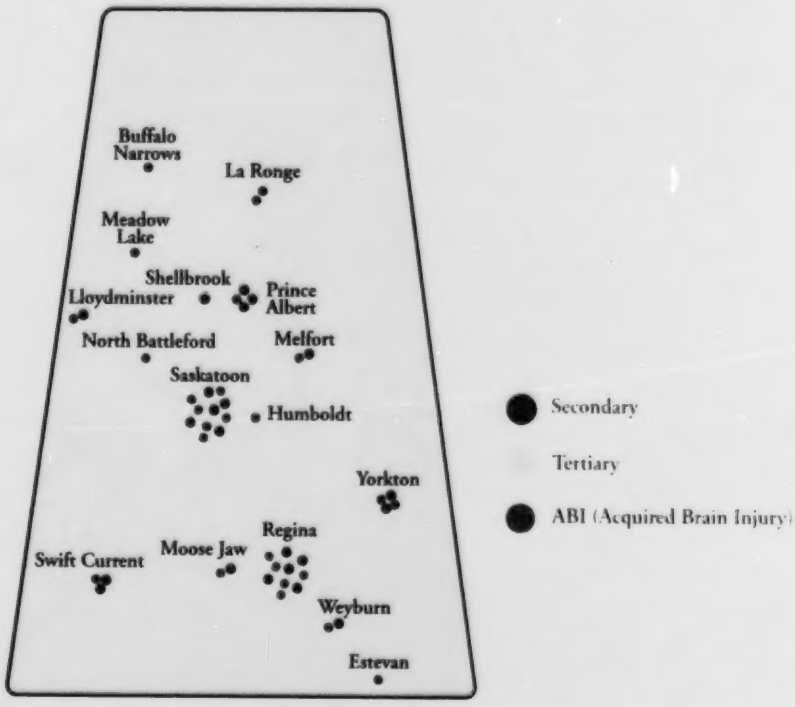
In addition, the program was instrumental in expanding the number of clinics specializing in the treatment of soft tissue injuries to 23, and in increasing support to these clinics, which are set up in communities across the province.

Rehabilitation Services in Saskatchewan



Early Intervention Program for soft-tissue injuries

SGI's Early Intervention Program (EIP) for soft-tissue injuries is an important component of injury rehabilitation in Saskatchewan. The EIP was developed in 1995 and has been reviewed and approved by SGI's Rehabilitation Advisory Board, composed of representatives from District Health Boards, the College of Physicians and Surgeons of Saskatchewan, the Saskatchewan Medical Association, the Canadian Paraplegic Association and the Saskatchewan Brain Injury Association, among others.

The EIP uses structured and medically proven rehabilitation plans for persons injured in automobile crashes, including treatment timelines and protocols. These rehabilitation plans are based on the findings of the Quebec Task Force on Whiplash Associated Disorders and the U.S. Department of Health and Human Services.

The EIP is based on primary, secondary and tertiary levels of care. During the first six weeks after injury, a physician, chiropractor or physiotherapist provides primary care, and treatment includes appropriate education, medication, therapy, home exercise and sometimes, a fitness program.

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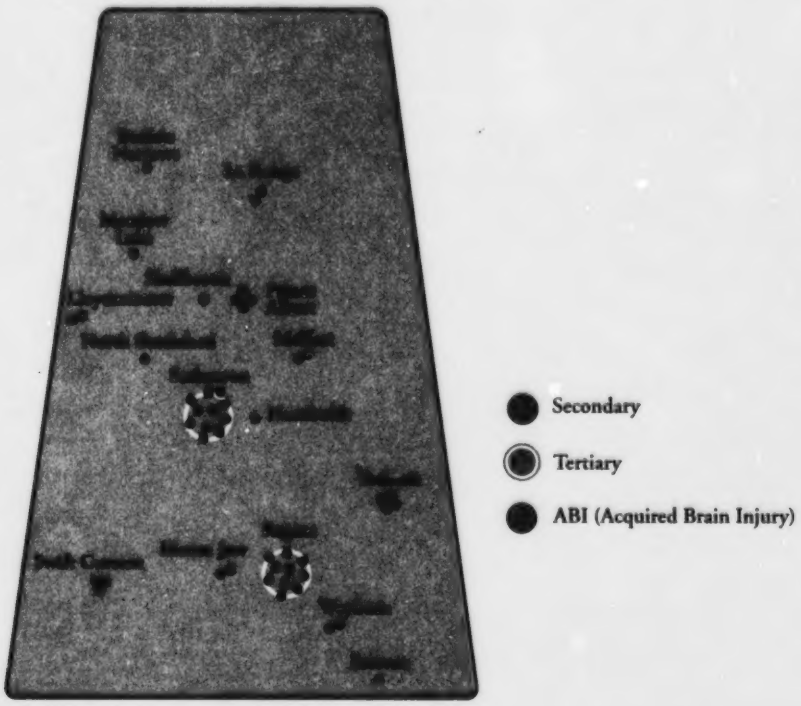

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If an injured person has not recovered after about six weeks, in consultation with the primary practitioner, he or she may be referred to a secondary centre for assessment by a team consisting of a physician, chiropractor and physiotherapist. The team confirms the injury's diagnosis and reviews the prior treatment, recommending continued primary care, or a secondary level of treatment.

If the injured person has not recovered after about 12 weeks, he or she may be referred to one of two tertiary centres for assessment and treatment by a multidisciplinary team consisting of physical rehabilitation experts, psychologists, social workers, occupational therapists and others.

Unique partnership benefits people with brain injuries

The acquired brain injury (ABI) program is an example of how PIPP has helped improve rehabilitation services and infrastructure for Saskatchewan people. The program is funded by SGI and administered by Saskatchewan Health, with 30 stakeholder agencies providing services to persons with acquired brain injuries and their families. SGI has made a commitment to fund the program for five more years, for an additional $14.2 million.

The partnership is aimed at the prevention and community-based rehabilitation of acquired brain injuries, and has led to an array of services that have enabled the survivors of brain injury to reintegrate more successfully into their communities. These services are available to all residents of Saskatchewan, regardless of how they were injured. About 50% of brain injuries in Saskatchewan are caused by automobile crashes.

Services include three outreach teams based in Prince Albert, Saskatoon and Regina that provide services throughout the province to survivors and their families. The outreach teams help people with acquired brain injuries after they leave acute care facilities and return to their home communities. In addition, 25 community-based programs across Saskatchewan deliver a variety of services and supports to brain-injured persons as close to their homes as possible. These programs are delivered through health districts and community agencies, and have been designed to fill gaps in services for people with acquired brain injuries and their families.

Services provided under the ABI program help people with acquired brain injuries develop memory, attention and problem-solving skills, social interaction skills and basic living skills such as cooking, budgeting and shopping so that they can live independently. Other services help people with acquired brain injuries develop the skills needed to re-enter the workforce – everything from acquiring a driver's licence to learning to use the bus system to upgrading academic credentials to on-the-job training placements. In 1999, residential options for people with acquired brain injuries were also added.

Timeliness of benefit payment

The timing of benefits under the tort system did not promote recovery because there was frequently a delay of several years before the claim was settled and compensation paid. Clearly, persons who are injured require immediate access to funds to cover expenses and income replacement. Under PIPP, income replacement benefits are paid as soon as possible after claim information is received. Long-term payments may be directly deposited to the injured person's bank account. Expenses are paid as soon as reported and direct payments are made to caregivers. Timeliness of benefit payment facilitates an early start to rehabilitation which improves the health outcomes for those injured and reduces the economic burden on society.

Independent research on PIPP

SGI provided a $911,000 grant to the University of Saskatchewan to research the effect a tort system and a no-fault injury system have on the health of people injured in auto collisions. Scientists from the University of Saskatchewan, University of Toronto and Sweden's Karolinska Institute examined the recovery of more than 9,000 Saskatchewan residents injured in crashes between July 1994 and December 1995 (the final six months of tort and the first year of PIPP). The study is the most comprehensive analysis ever conducted of the impact that the change in compensation system had on the health status of persons injured in automobile crashes. The results of the study are now finalized and are expected to be released in the near future.

Additional spending on research

SGI is funding two additional injury-related research projects aimed at improving the treatment of those injured in traffic crashes. The Outcomes Evaluation of Rehabilitation is being conducted through the Institute for Health and Outcomes Research at the University of Saskatchewan. Scientists at the Universities of Alberta and Saskatchewan and the Karolinska Institute in Stockholm, Sweden, are conducting the Mild Brain Injury Task Force as a joint project.

The five-year Outcomes Evaluation of Rehabilitation is monitoring the patient outcomes of SGI-funded rehabilitation programs for soft-tissue injuries. Approximately 170 information variables are tracked for each patient for a period of one year. Slated for completion in 2002, this project will assess the effectiveness of treatments provided by Saskatchewan's primary, secondary and tertiary centres, as well as the effectiveness of the protocols established for the Early Intervention Program adopted by SGI.

The Mild Brain Injury Task Force is scrutinizing the current scientific knowledge in the area of mild brain injury. This involves a systematic search of all world literature, applying strict scientific protocols. An expert panel, made up of clinicians and scientists, will assess the quality of the evidence with the view to developing practical guidelines for the diagnosis, treatment and rehabilitation of mild brain injuries. This study will be completed in 2002.

SGI is committed to injury-related research because it will help improve the recovery of injured people.

ENHANCING FAIRNESS

In the early 1990s, questions arose about unfairness under the tort system of auto injury compensation. There were several areas of concern.

- Most of the money paid out in benefits was going to people with less serious injuries, often giving them compensation greater than their economic loss.
- Those with serious injuries found themselves with access to very limited benefits if there was no one for them to sue. If they were able to sue, the level of liability insurance they had access to was sometimes not enough to compensate them fairly for their injuries. In other cases, the courts awarded large sums to seriously injured persons, but the injured person was not able to collect the entire settlement from the at-fault party.
- Individuals who suffered similar injuries sometimes received vastly different compensation, depending on the circumstances of the accident, and on insurance coverage carried by other motorists.

PIPP was implemented in 1995 to enhance fairness for every Saskatchewan resident injured in an auto collision, and to eliminate the problems listed above. Most of those problems are addressed by the basic tenet of no-fault injury insurance – that every Saskatchewan resident injured in an auto collision has access to adequate benefits, regardless of fault.

Compensation regardless of fault

No-fault injury insurance is built around the principle that compensation is non-discriminatory, as it is not dependent on finding someone to blame, but rather, based on the effects of the injury. Providing compensation on a no-fault basis ensures that all those who help fund the plan have equal access to benefits, and that compensation for similar injuries does not vary.

A no-fault auto injury insurance system operates on the assumption that it is in the best interests of society to address the health of all those injured in auto crashes, and that it is also in the best interests of society to protect the financial position of those individuals while they recover from their injuries. Indeed, if the insurance plan does not assist with rehabilitating those injured in auto crashes, those individuals are likely to access the health system or other social programs. In some cases, they may not receive adequate rehabilitation at all, and their health may be impaired for life, necessitating further reliance on social programs.

Similarly, if the insurance program does not protect an individual's financial position in the event he or she is injured in an auto crash, the individual could become reliant on social assistance. If that individual provides financial support to family members, the family members, although in no way responsible for the individual's injury, could also be disadvantaged by his or her reduced position.

A no-fault auto injury program, through provision of adequate benefits for all those injured in auto crashes, can ensure those injured in auto crashes are not adding extra burden on social programs. It can also, through provision of adequate rehabilitation programs, help those injured in auto crashes recover from their injuries as fully as possible, and to a level of productivity comparable to that in their pre-crash lives.

While Saskatchewan's vehicle insurance system is built around the basic principle of adequate benefits for all residents injured in auto crashes, it also recognizes that those who cause auto collisions must bear responsibility for their actions. Those at fault for collisions pay penalties through the driver's licensing system. In addition to surcharges against their driver's licence, if their driving record shows a history of risky driving behaviour, they may be required to take additional driver training, or may have their driver's licence suspended.

If the behaviour that led to the collision is criminal, the criminal justice system addresses it through appropriate fines or penalties, including incarceration in extreme cases. Further, if a driver is convicted of certain offences under the Criminal Code of Canada in relation to the collision and is at fault, he or she does not have access to the permanent impairment benefits available to other Saskatchewan residents injured in auto crashes.

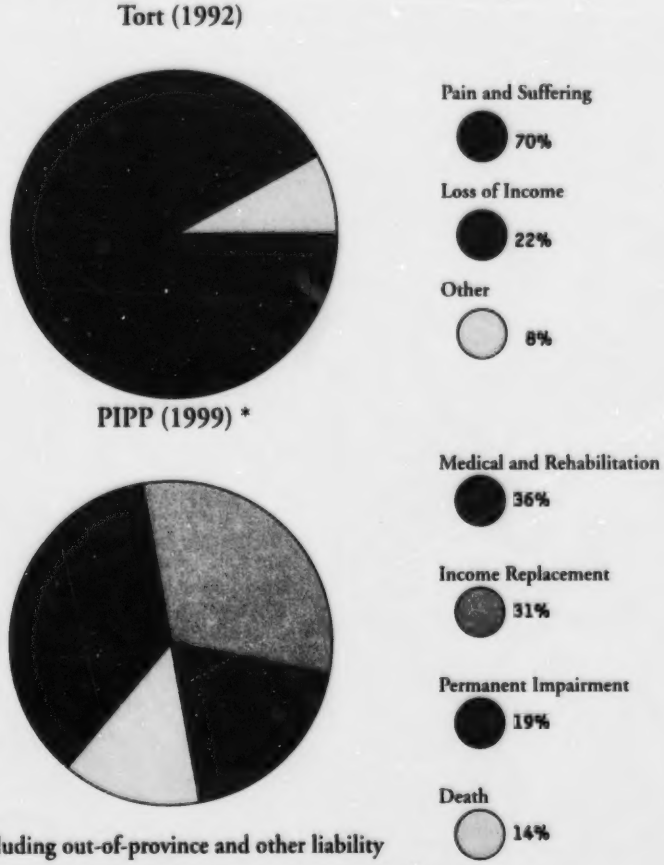
Priority of benefits

Under the tort system of auto injury compensation, the greatest proportion of funds was spent on pain and suffering benefits. In 1992, 70% of benefit money went to pain and suffering payments, 22% went to loss of income, while the remaining 8% covered all other benefits, including medical and rehabilitation.

Most of the money paid for pain and suffering went to people with less serious injuries, such as whiplash. Whiplash and other soft tissue injuries account for more than 80% of all crash-related injuries.

Further, the money being awarded for pain and suffering payments was on an upward trend. For example, a court award set a precedent in 1991 that nearly doubled the general damages paid for the most severe whiplash cases, from a maximum of $25,000 to a new maximum of $45,000, plus pre-judgment interest.

PIPP has changed the priority of benefits. In 1999, 36% of benefit money paid covered medical and rehabilitation expenses. Income replacement benefits accounted for 31%, permanent impairment benefits for 19% and death benefits for 14%.



*excluding out-of-province and other liability

The right of all Saskatchewan residents to coverage, regardless of fault, makes the legal proceedings, and therefore the legal costs, required under a tort system unnecessary in most cases.

Today the focus is on helping those injured in auto crashes recover as fully as possible, and as quickly as possible, and on protecting their financial position while they recover.

Allocation of benefits by severity of injury

The tort approach resulted in a system where, while all Saskatchewan motorists contributed about equally to the funding of the plan, only those whose injuries were caused by another person could receive any meaningful compensation. This was one of the major criticisms of the tort system, in that it discriminated unfairly among persons injured on the basis of cause. About two-thirds of those who were injured could find someone to sue for compensation, and those two-thirds received over 90% of the amounts paid by the plan. The remaining one-third, who had no one to sue for compensation, received less than 10% of the amounts paid.

The tort system resulted in a variation of benefits based on the cause of the injury and not on the effect or severity of the injury. There were cases under the old system where a person with minor soft tissue injuries received more compensation than a person who was made a paraplegic as a result of the crash – simply because the latter person was in a single-vehicle or some other type of collision where there was no one to sue for damages.

By contrast, the current automobile injury compensation system pays comparable benefits for comparable injuries regardless of fault, regardless of the amount of liability insurance carried by the at-fault party and regardless of the number of individuals injured in the collision. Reallocation of benefit dollars – away from pain and suffering, and toward appropriate levels of rehabilitation – means those seriously injured have access to the benefits they need, when they need them and for as long as they need them.

Improving fairness

While PIPP has ensured all Saskatchewan residents injured in auto collisions have access to adequate benefits, there are some areas where the fairness of the program could be improved. For example:

- A young person who is catastrophically injured is currently held, for life, to the level of income earned at the time of the crash. Earning potential is not considered, and income replacement levels can be as low as minimum wage.
- Self-employed people who are injured in an auto crash are not always reimbursed fairly. Some are over-compensated, while others are under-compensated.
- Death benefits for people who are temporarily unemployed or under-employed – for example, someone recently laid off – do not account for the fact that the person may have soon resumed employment at a pre-layoff level.
- Medical and rehabilitation expenses are limited to $541,824. However, there are a few individuals seriously injured every year who may outlive the medical and rehabilitation limit.

SGI is putting forward 44 recommendations for improvements to these areas, as well as others. They follow in Section II.

Appeals

The current auto injury plan provides a three-stage appeal process for injured persons who disagree with an SGI decision. Before any appeal is formally heard, local claims management reviews the complaint. SGI can alter any of its decisions during the appeal process if it is provided with new information.

The first appeal is internal, whereby the injured person or his or her representative presents an SGI appeals officer with their complaint. If the first appeal does not resolve the issue, the injured person can proceed to mediation.

This second level of appeal is optional and costs the injured person $38. Mediation has proven frustrating for both injured persons and for SGI because it is difficult to mediate what is often a monetary issue when benefit limits are prescribed by legislation and regulation.

The third level of appeal is the Court of Queen's Bench. This is the final level of appeal in most cases, with the court's decisions binding on both injured persons and SGI. If the injured person is successful at the third level of appeal, SGI pays his or her legal costs. The injured person or SGI may appeal a Court of Queen's Bench decision to the Court of Appeal, but only on a question of law or jurisdiction.

The final two steps of the current appeal process are not working well. Mediation seldom results in resolution of an issue, and appeal to the Court of Queen's Bench can be costly, slow and intimidating for the injured person. SGI is recommending the process be simplified, made independent of SGI and less adversarial.

Following is a table outlining the number of appeals, by year, under PIPP at the various levels:

Number of Files Appealed
(by loss year)

Year	Internal	Mediation	Court of Queen's Bench	Total number of injury claims	Appeals per 100 injury claims
1995	361	73	35	6,550	5.5
1996	270	58	24	6,019	4.5
1997	234	47	16	6,043	3.9
1998	139	28	6	6,127	2.3
1999	50	4	0	6,531	0.8

Customer service

Insurance processes are, by their nature, adversarial, and SGI's tort auto injury program was no exception. A typical tort injury claim requires the injured person to prove the extent of his or her injuries to an insurance company trying to keep down claim costs. Because claim costs are paid from the pool of insurance premiums paid, there is a direct relationship between the cost of claims and the cost of insurance coverage.

PIPP was designed to bring about a major change in the traditional relationship between SGI and its policyholders. Recognizing that customer service is critical to the management of injury claims, because processes that are not "customer friendly" can delay recovery, SGI has been working to improve customer relations.

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To that end, the corporation has made changes, and implemented new programs.

- **Resources** – to provide better service to those injured in auto crashes, SGI has increased staffing levels in the claims injury area. In 1994, 59 people worked directly with those injured in auto crashes. At the end of 1999, there were 89 people working directly with injured persons.
- **Administrative processes** – to simplify processes for those injured in auto crashes, SGI has streamlined administrative processes to free up time for Personal Injury Representatives to work directly with those injured. The Application for Benefits form is being simplified. New policies have simplified expense handling, speeding up reimbursement to those injured.
- **Customer service targets** – targets have been implemented to address such things as timeliness of response and providing adequate information to those injured in auto collisions.
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Surveys of claim customers from 1992 through to 1999 indicate that SGI has been able to maintain a customer satisfaction level of 85% in the auto injury area. The corporation has set a goal of 90% satisfaction with the program, and will continue to implement improvements to service.

Customer Service Targets (PIPP)

Attain a customer service rating of 90% through implementation of the following targets:

1. **Respond to all new claims the same day.**
2. **Ensure that injury benefits are fully explained.**
3. **Ensure that changes to benefits are explained verbally, followed by a letter.**
4. **Reimburse expenses immediately.**
5. **Ensure income replacement commences within 14 days of date reported.**
6. **Authorize recommended rehabilitation and/or treatment expenses for new claims within one day of initial interview.**
7. **Respond to telephone inquiries the same day received.**
8. **Respond to written letters within five working days of receipt.**
9. **Visit hospitalized/immobilized customers within three working days of the claim being reported.**

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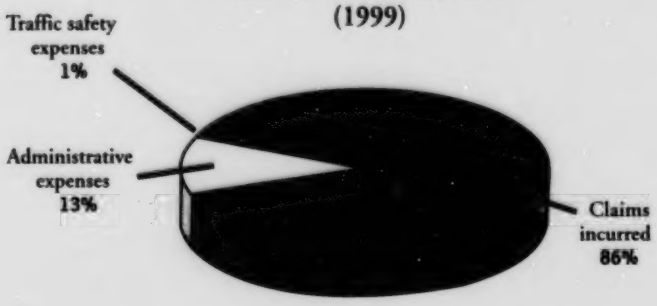
STABILIZING INJURY CLAIM COSTS

The Saskatchewan Auto Fund operates much like a trust fund for motorists, using vehicle insurance premiums to provide compulsory automobile insurance coverage and other related services to Saskatchewan drivers. It neither receives money from, nor pays dividends to the government.

The Auto Fund's mandate is to provide basic automobile insurance coverage at reasonable rates to Saskatchewan vehicle owners. It is similar to insurance programs in Manitoba (Manitoba Public Insurance) and British Columbia (Insurance Corporation of British Columbia) and compares favourably to both in terms of administration expenses. In 1998, ICBC's and MPI's administration expenses per registered vehicle were $218 and $99 respectively, while SGI's were $80. ICBC's and MPI's 1999 administration expenses are not yet available, but SGI's dropped to $74 per registered vehicle.

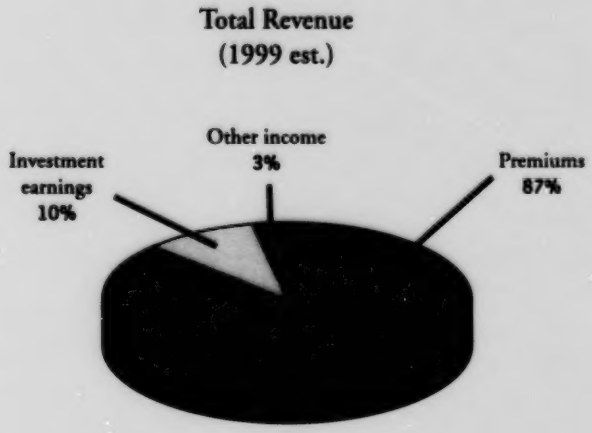
Compared to the private sector insurance industry in Canada as a whole, the Auto Fund's administration costs are also favourable. In 1999, the Auto Fund returned 86 cents of every dollar it spent to its customers in the form of claim expenditures, while it spent only 13 cents on administration expenses and one cent on traffic safety. Conversely, in 1998 (the latest year for which figures are available), the insurance industry as a whole, which must spend more money to promote and underwrite its products, spent 31 cents of every dollar on administration and returned only 69 cents to customers.

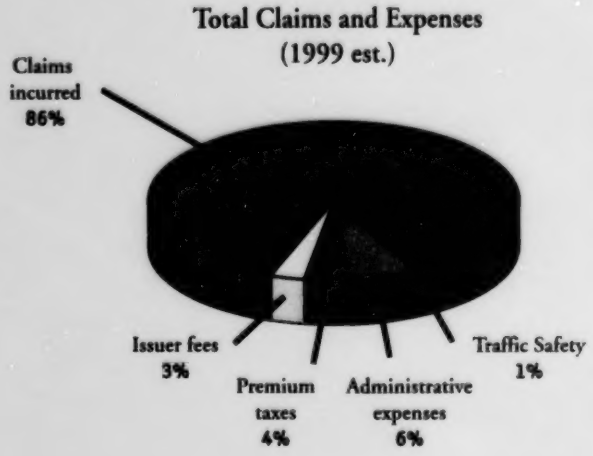
SGI Claims and Expenses
(1999)



Insurance Industry Claims and Expenses
(1998)

The largest revenue source for the Auto Fund is vehicle insurance premiums. Correspondingly, the largest expense is payment for claim costs.





In 1999, estimated premiums earned amounted to $414 million, 87% of total revenue. Other revenue, which includes investment and other income, made up only 13% of total revenue.

Estimated expenses in 1999 totaled $445 million. The highest expense was claims incurred, which amounted to $384 million, 86% of total expenses. Other expenses, which include issuer fees, premium taxes and administration costs, amounted to only 13% of total expenses. Traffic safety prevention costs amounted to 1% of total expenses. In 1999, total revenue exceeded total expenses, resulting in an estimated surplus of $29 million.

Saskatchewan Auto Fund
Statement of Operations
(millions of $)

	1999 (est.)
Premiums earned	$ 413.8
Other income	60.8
Total revenue	474.6
Claims incurred	384.3
Other expenses	60.8
Total expenses	445.1
Net surplus	29.5
RSR balance beginning of year	(91.6)
RSR balance end of year	$ (62.1)

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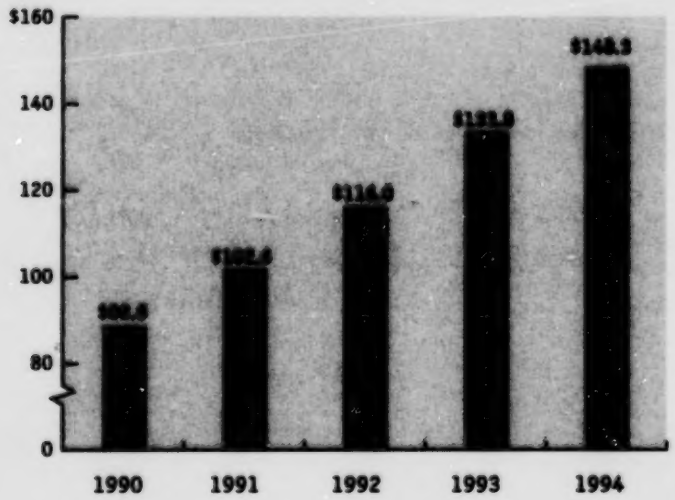
The Saskatchewan Auto Fund is set up to operate on a break-even basis over time. Since the inception of the Fund, annual surpluses/deficits have accumulated in the Rate Stabilization Reserve (RSR). The RSR is intended to operate with a small surplus balance. This acts as a buffer against unpredictable events, such as adverse weather conditions, in order to provide Saskatchewan motorists with stability in vehicle insurance rates.

The Auto Fund began the 1990s with a substantial surplus of $45 million in the RSR, but the surplus was steadily eroded in the early 1990s as a result of escalating claim costs.

This rise in claim expenses was largely a result of higher costs for injury liability (tort) claims. Over the period 1990 to 1994, the average yearly increase in injury liability costs on a loss year basis was 14%.

Injury Liability (Tort) Costs
(millions of $)
(by loss year)



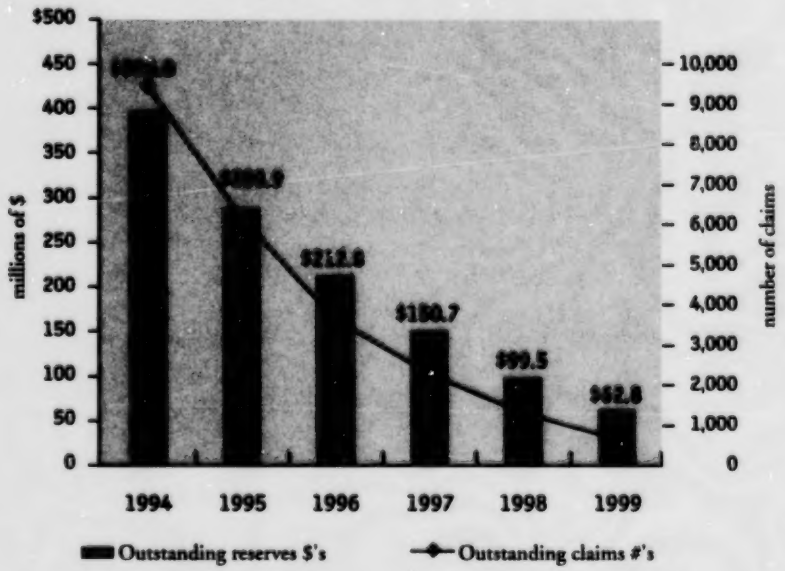
The rise in injury expenses was largely attributable to three factors:

- larger court awards, particularly for soft tissue injuries (whiplash) which made up more than 80% of all injury claims in Saskatchewan;
- the increase in 1985 to $200,000 third-party liability coverage which provided more to those seriously injured in a crash; and
- the change in 1986 entitling passengers to sue drivers for negligence.

Premium income could not keep pace with the increase in injury liability costs, resulting in annual operating losses for the Auto Fund. Insurance premiums were increased by 3.5% in 1992 and 4.75% in 1993 to compensate for rising injury costs. This was insufficient, and by 1994, the RSR deficit reached $108.9 million.

At the end of 1994, there were 9,434 outstanding injury liability (tort) claims, with $396 million in reserve for their settlement. At the end of 1999, there were still 698 outstanding claims with almost $63 million in claim reserves for their settlement.

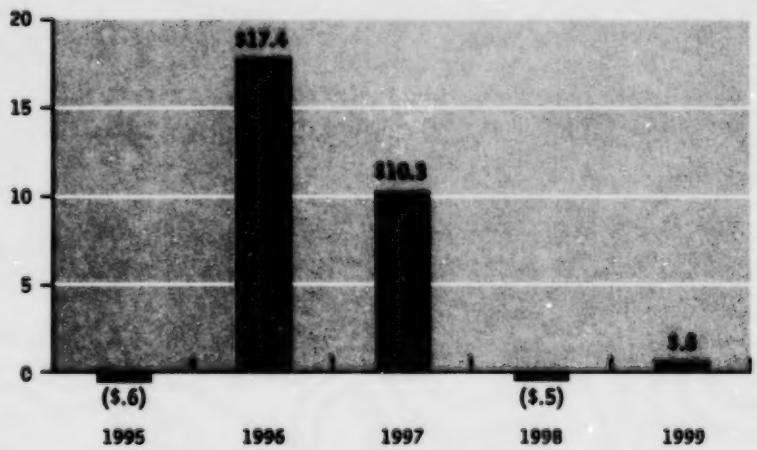
Outstanding Injury Liability Claims
pre-1995 tort claims



Predicting the costs of injury liability claims in a tort system can be very difficult. An injury liability (tort) claim may take several years to settle, unlike the damage portion of a claim which is paid out relatively quickly.

For example, the $396 million in reserve for the 9,434 outstanding injury tort claims in 1994 proved to be inadequate. Over the last five years, the reserve had to be strengthened by a total of $27 million to cover expected costs of paying out these claims.

Injury Liability Reserve Increases
pre-1995 tort claims
(millions of $)



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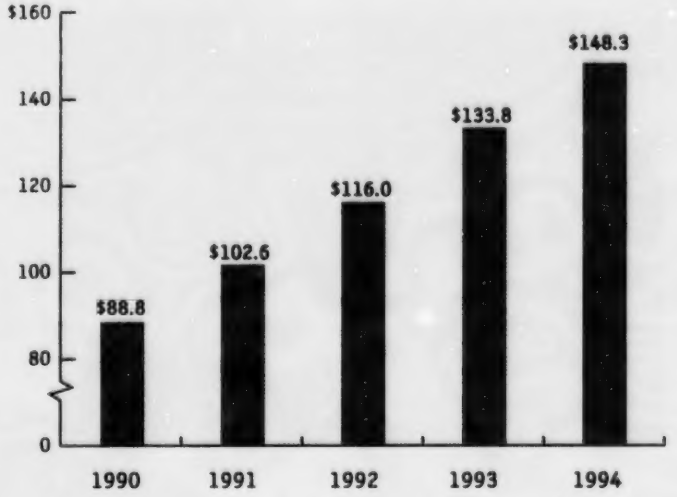

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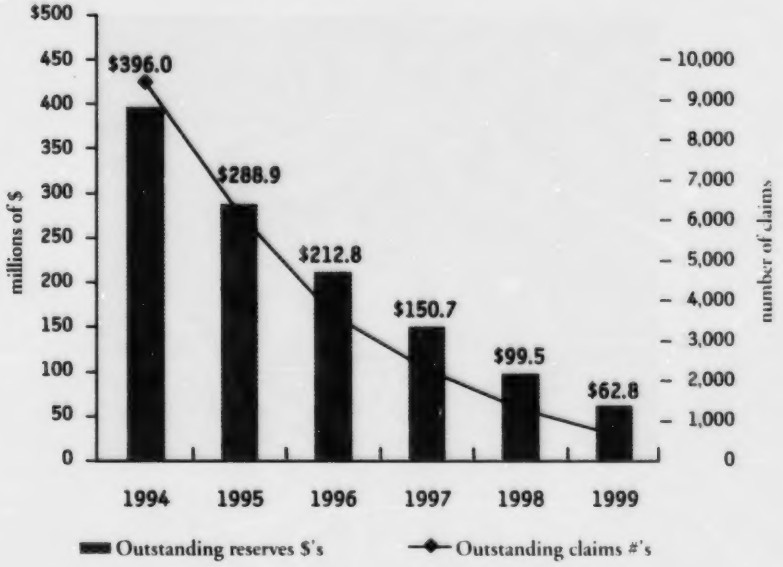

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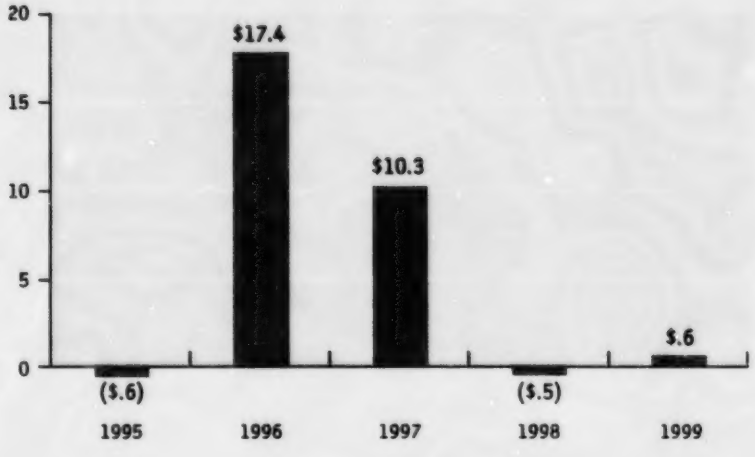
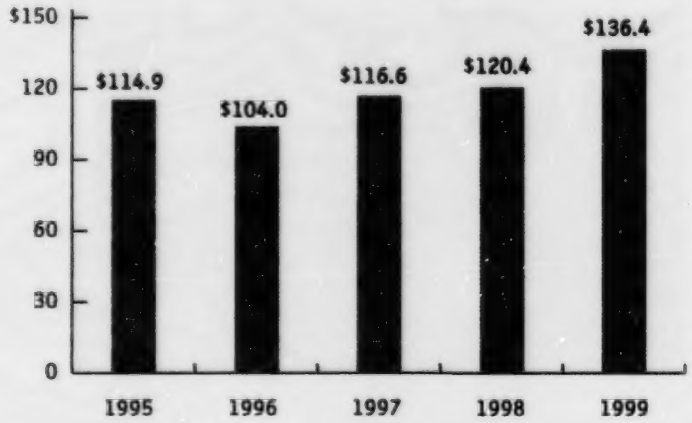


A common insurance industry assessment of injury costs is to review these expenses on a loss year basis. All injury claims and the dollars allocated to those claims are represented in the year in which the claim occurred, despite the fact that the amount allocated to a particular injury claim may have changed over time and be paid out over time.

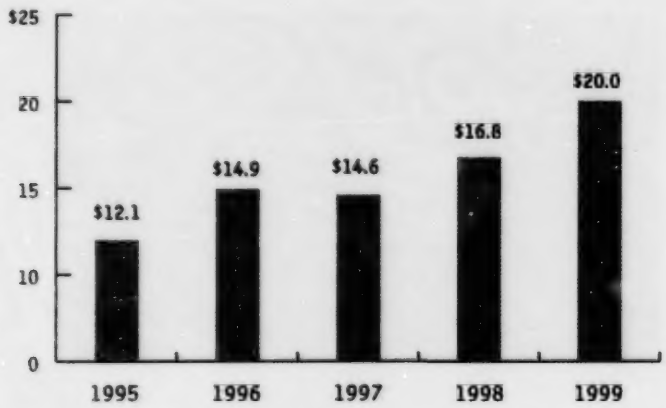
Since the program was introduced in 1995, no-fault injury benefit costs have stabilized. Over the period 1995 to 1999, the average yearly increase in PIPP costs has been 5% on a loss year basis.

PIPP Injury Costs
(millions of $)
(by loss year)



While the costs of providing PIPP benefits for all Saskatchewan residents have stabilized, injury claim costs for out-of-province liability continue to rise at a rate greater than that of inflation, largely because other jurisdictions continue to operate under a tort system. Over the period 1995-1999, the average yearly increase in injury liability costs was 14% on a loss year basis.

Out-of-Province and Other Liability Claim Costs
(millions of $)



If PIPP had not been introduced in 1995, the average premium for vehicle owners in 2000 would be 38% or $227 higher per vehicle.

If the tort system was reintroduced and PIPP was repealed in 2001, the average premium for vehicle owners would increase by an estimated $277. In future years, this difference would grow as costs under a tort system increase at a much higher rate than PIPP costs and other expenses. By 2004, the average premium for vehicle owners would be an estimated $1,230, 64% higher than under PIPP at $751 per vehicle.

Auto Fund
Rate Increases

1990	no increase
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1992	3.5%
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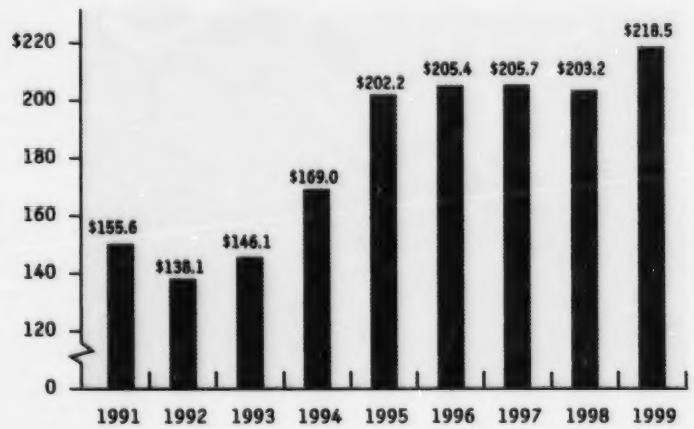
1996	no increase
1997	no increase
1998	5%
1999	2%
2000	2%

Overall, the costs of providing injury benefits for Saskatchewan residents have remained affordable for Saskatchewan motorists. Since 1994, one three-year rate strategy has been implemented, with increases of 5% in 1998, 2% in 1999 and 2% in 2000. In addition, the deductible applied to vehicle damage claims was increased from $500 to $700. These rate increases were required to reduce the deficit in the RSR and to cover the rising costs of vehicle repair.

Vehicle damage claim costs were $202 million in 1995, a 20% increase over 1994. The situation was made worse by several extreme storms in 1995 and 1996. These events dramatically increased the volume and severity of claims compared to previous years. Over the past five years, vehicle damage claim costs have remained over $200 million annually, reaching over $218 million in 1999.

Damage Claims Incurred
(millions of $)



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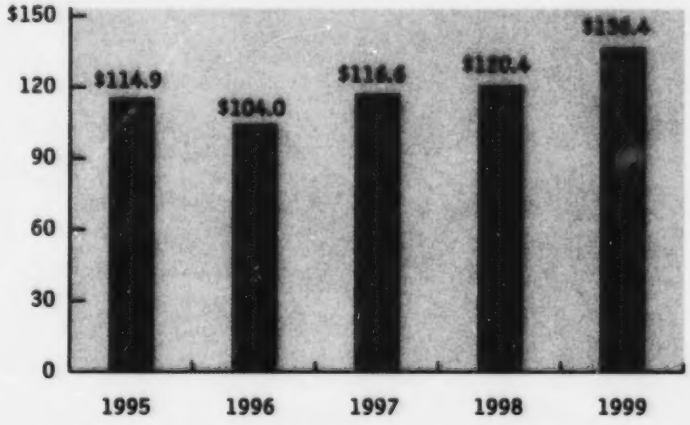

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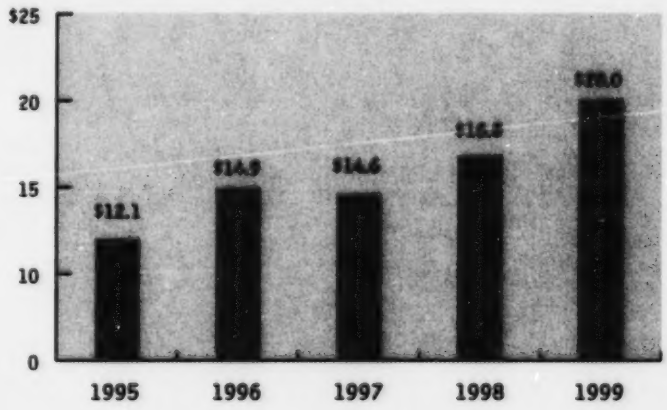

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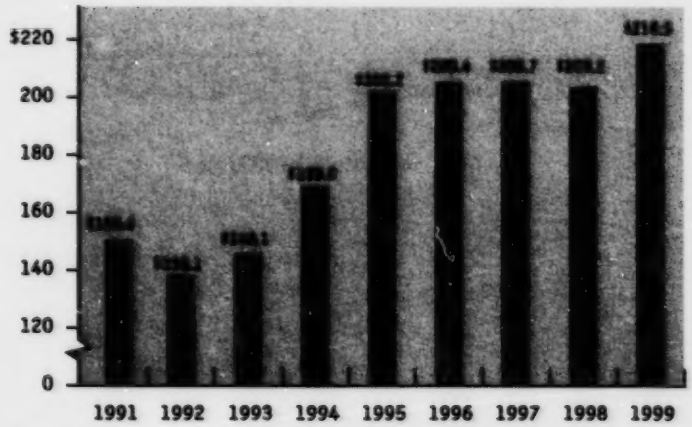
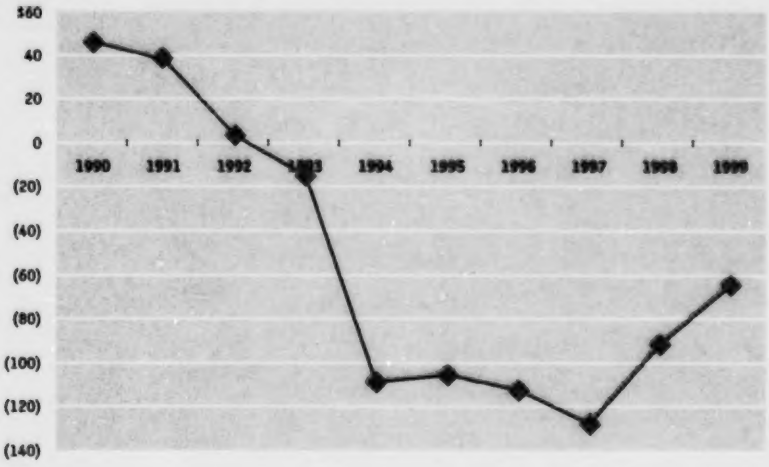


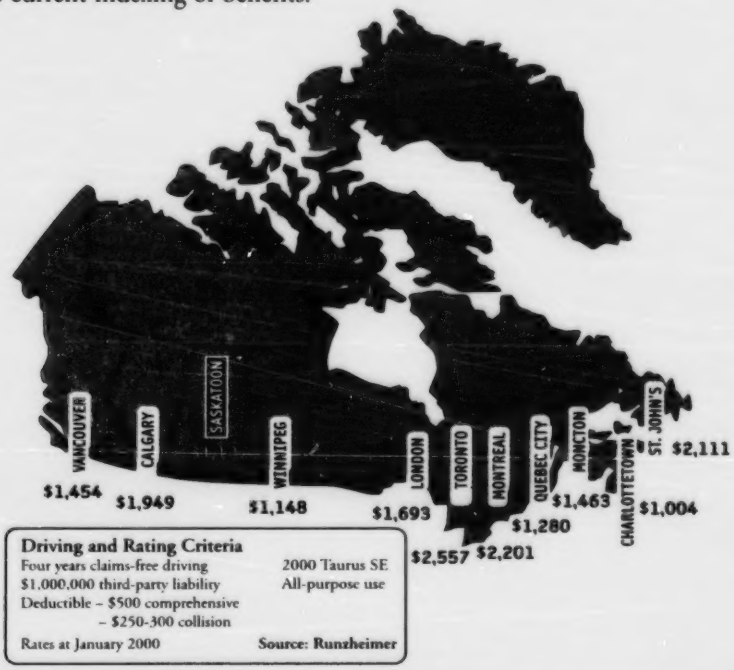
The three-year rate strategy introduced in 1998, along with reduced claims as a result of favourable weather conditions and strong investment earnings, have resulted in surpluses in the Auto Fund. The RSR continues to carry an estimated deficit of $62 million at the end of 1999, but significant strides have been made to restore financial health to the Auto Fund.

Rate Stabilization Reserve Balance
(millions of $)



Rate comparison

PIPP is financially sustainable over the long term. The Auto Fund has administered the program for five years and has a good indication of the ongoing expenses required to operate the program. Costs have stabilized and, under the current program parameters, expenses are not expected to rise beyond cost-of-living increases, which are built into the current indexing of benefits.



Throughout, Saskatchewan motorists have enjoyed affordable, stable insurance rates among the lowest in Canada.

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Recommendation 1 – Rehabilitation Limit

Section 110

Medical and rehabilitation expenses are limited to $541,824. There are a few claims each year where the injured person is severely disabled and may outlive the sum available for medical and rehabilitation costs. These injured persons could become reliant on another social system. Both Manitoba and Quebec have unlimited rehabilitation benefits.

Example

A young man has suffered a brain injury and is also a paraplegic. He has significant personal care costs, as well as expenses for wheelchairs and renovations to make his home and automobile accessible. He lives with his parents and they are concerned he will outlive his benefits. Due to his young age, he will definitely exceed his rehabilitation limit.

In another situation, a young woman is severely brain injured and, after three years of post-crash care, has nearly exhausted her medical and rehabilitation benefits. The parents had a $2 million SGI CANADA family security package which was paid out to help cover the care costs for their daughter.

Recommendation

Increase medical and rehabilitation benefits to unlimited, with caps on weekly personal/home care to ensure that all injured persons are covered for all medical expenses.

Other Alternatives

1. Increase the medical and rehabilitation limit to $1 million, with caps on weekly personal/home care (cost of $950,000/year).

2. Increase the medical and rehabilitation limit to $2 million, with caps on weekly personal/home care (cost of $990,000/year).

3. Leave the medical and rehabilitation limit at $541,824.

Financial Impact

Actuarial estimate of $1,453,000/year increase.

Recommendation 2 – Personal Care Grids

Section 158; Regulation 44; Appendix D

The maximum allowed for care benefits is $596/week, based on the number of points allotted within four grids: personal care, home care, supervision and particular supervision (e.g., supervising a blind person until they start to function on their own). The personal care grids do not provide adequate assistance for catastrophic brain injuries. In addition, point allocation is not always fair and the grids do not cover some common assistance requirements. A committee, including health care workers, has recommended that these grids be changed.

Example

A person who suffers a brain injury and requires daily supervision (in addition to personal and home care assistance) is not sufficiently compensated by the grids.

Using the grids, a person who requires assistance with dinner preparation is allowed 11 points, whereas a person who requires assistance with laundry is allowed one point. These point allocations are unfair. In addition, there is no provision for snow removal or lawn and garden care.

Recommendation
Revise the grids for personal and home care, allowing for such items as snow removal and lawn and garden care, and allocating points fairly. Condense the activities into two grids – one for physical care and one for mental care. Allow extra compensation for mental care, at half the benefit allowed for physical care (this would effectively increase the care limits for those catastrophically injured).

Other Alternative
1. Leave the grids as they are.

Financial Impact
Actuarial estimate of $345,000/year increase.

Recommendation 3 – Accompanying Expenses

Section 171; Regulations 58 and 59
Income replacement and travel and accommodation expenses are paid for those persons required to accompany an injured person to an examination or treatment, due to the injured person's physical or mental condition or age. These provisions need to be clarified to provide for expenses and income replacement for a family member when it is medically recommended that the family member be present at an examination or treatment. It is SGI's current practice to provide for these expenses.

Example
A young adult is seriously injured. A parent wishes to take a leave of absence from work and stay with him to help in his rehabilitation, and the caregivers feel that would be helpful. The parent will have expenses as well as income loss.

Recommendation
Expand accompanying care benefits to pay expenses and income replacement when an immediate family member is helpful to the rehabilitation process, as recommended by the medical practitioners.

Other Alternative
1. Leave accompanying care benefits as they are.

Financial Impact
None.

Recommendation 4 – Telephone/Television Expenses

Regulation 60
There is a provision to pay for long distance telephone expenses up to $54 a month, but there is currently no provision to pay for basic telephone and television expenses while in a treatment facility. Current practice is to pay reasonable expenses for telephone and television while in a care facility or in a treatment program, which can be up to eight weeks in length.

Recommendation
Allow for payment of reasonable and actual telephone and television expenses while in a treatment facility.

Other Alternative
1. Leave as is.

Financial Impact
None.

Recommendation 5 – Definition of Relapse

Sections 100 and 142 – 144
There is no definition of relapse in the legislation.

Example
There are situations where people with minor whiplash injuries are returning to SGI years later with neck pain. There are many reasons for a neck problem, however, the injured person may associate the problem with the motor vehicle crash and ask that it be defined as a relapse.

Recommendation
Define relapse to include only crash-related injuries.

Other Alternatives
1. Define relapse to include a time limit of one year. This is problematic because some people feel they have been affected years later.

2. Leave as is with no definition of relapse.

Financial Impact
None.

Recommendation 6 – Income Replacement for Catastrophic Injuries

Section 136
A person catastrophically injured (not a student or youth) is held for life to the level of income earned at the time of the crash, or to the level of income determined at 180 days, if they were a temporary, part-time or non-earner. Earning potential is not considered and the income level can be as low as minimum wage ($12,480/year).

From 1995 through 1998, there were about 50 cases of quadriplegia, paraplegia and severe brain injury from motor vehicle accidents.

Example
A young man just out of high school, working as a service station attendant, plans on going to university later. If he is seriously injured in a crash, he will get minimum wage for life. This is unfair since he had a much greater potential.

Recommendation
Pay an income replacement benefit based on the greater of the Industrial Average Wage or actual income to anyone, other than a student or youth, suffering a catastrophic injury, from the date of the crash. A student or youth catastrophically injured would receive the benefit after the end of current studies or at age 16. Anyone earning more than the Industrial Average Wage at the time of the crash would receive an income replacement benefit based on actual income. Catastrophic injuries would include quadriplegia, paraplegia and severe brain injuries (further defined in medical terms).

Other Alternatives
1. Five years after a crash, all injured persons still disabled would receive a minimum of the Industrial Average Wage (this would apply to all very serious injuries). Some people with less serious injuries, who may not have returned to regular duties because of psychological or other barriers to their rehabilitation, would also receive the additional benefit.

2. Leave as is.

Financial Impact
Actuarial estimate of $1,377,000/year increase.

Recommendation 7 – Definition of Catastrophic Loss
Section 100(1)
There is a recommendation to pay an income replacement benefit based on the Industrial Average Wage to those individuals who suffer a catastrophic injury. To do so, a definition of catastrophic injury must be added to the legislation. The definition must be clear, since leaving room for interpretation of a catastrophic injury could mean paying for injuries medically considered less serious.

Example
Injuries such as quadriplegia, paraplegia and severe brain injury drastically and permanently change the life of the injured person.

Recommendation
Define catastrophic injury medically to include quadriplegia, paraplegia and severe brain injury. Consider additional impairments defined in Ontario legislation as catastrophic injuries, such as total blindness and complete loss of use of two limbs, for inclusion in the definition of catastrophic injuries.

Other Alternative
1. Leave as is with no definition for catastrophic injury.

Financial Impact
None.

Recommendation 8 – Income Replacement Benefits for Persons Over Age 65

Section 129

Any person injured in a motor vehicle crash who is still injured at 180 days is entitled to an income replacement benefit for life, if necessary, based on the job they could have held prior to the crash. This benefit is paid in addition to home and personal care expenses. An injured person over age 65 may have never worked outside the home or may be retired with no intention of working again. Currently, SGI must obtain comments from the injured person's medical practitioner to determine whether the injured person is capable of holding employment. The medical community is critical of this benefit, which compensates many injured persons for economic losses they will never experience. Over-compensation is a barrier to recovery. Manitoba benefits originally allowed for termination of income replacement at age 65; however, a provision for paying a pension after age 65 will soon be implemented. Quebec benefits also reduce after age 65.

Example

An 80-year-old retired homemaker is injured in a crash and is still disabled after 180 days. Her physician is asked whether she could have worked prior to and following the crash. The physician feels the questions are inappropriate (she had never worked outside the home and had no intention of working). She is compensated at minimum wage level for a potential loss of income that she will never have.

Recommendation

Pay an income replacement benefit for an injured person who was over age 65 at the time of the crash only if they held employment at the time of the crash. This benefit will then be stepped down over the next four years to age 69. Persons at age 65 who have received an income replacement benefit for the previous five years or more will be entitled to a pension benefit based on the duration of time they received an income replacement benefit.

Other Alternatives

1. Pay an income replacement benefit for life, if necessary, to injured persons who were over age 65 at the time of the crash only if they held employment at the time of the crash.

2. Leave the benefit as is and pay the income replacement benefit to any injured person, regardless of age, if they are disabled past 180 days.

Financial Impact

Actuarial estimate of $3,022,000/year decrease.

Recommendation 9 – Student and Youth Definitions

Sections 118 – 128

The student and youth sections require clarification. Benefits are not clearly set out and the groups or types of students need to be better defined.

Present definitions do not consider children who are under age 16 and not attending school. SGI's current practice for children under age 16 is to begin paying the loss of studies benefit when the projected school year would have ended. In addition, the legislation does not state that students must attend school regularly to be eligible for the loss of studies benefit. It should be established that a full-time course load (as defined by the educational institution) and 60% attendance prior to the crash are required to qualify for these benefits.

There is currently no provision to pay a partial loss, such as when a post-secondary student can attend school half-time but not full-time.

Loss of Studies Benefit
The loss of studies benefit is calculated on a semester basis. The intent is to provide a financial benefit to offset any earnings potentially lost as a result of a delay in entering the workforce.

- Youth includes students at the K-8 level and $3,792 per year is paid.
- Students at the secondary level receive $3,522 per semester or $7,044 per year.
- Students at the post-secondary level receive $7,044 per semester or $14,087 per year.

Examples
A 17 year old attends school only about once a week, but is still on the high school roster. It is not clear whether this person should be considered a student.

A university student is able to attend four of the five classes he/she is enrolled in, but cannot attend the fifth due to the accident. It is not clear whether this student should be paid only one fifth of the loss of studies benefit.

End of Current Studies
Income replacement benefits may be payable at the "end of current studies." This should be more clearly defined to state that for students enrolled in secondary school at the time of the crash, the end of current studies would be Grade 12. For students enrolled in post-secondary education at the time of the crash, the end of current studies would be the end of the program they were in (e.g., for a student enrolled in a four-year degree program, his or her "end of current studies" would be the projected end of that four-year program).

Recommendation
Allow for payment of a partial loss of studies benefit when part of a semester is missed; change the definition of "youth" to include those children under age 16 who do not attend school; change the definition of "student" and "youth" to include a minimum school attendance of 60% and full-time course load (as defined by the educational institution). Specifically note that those students who do not meet these minimum requirements are not entitled to the loss of studies benefit.

Other Alternative
1. Leave the student and youth benefits as they are.

Financial Impact
Minimal.

Recommendation 10 – Student/Youth Income Replacement Benefit

Sections 121, 126
Students or youths who cannot attend school or work are entitled to an income replacement benefit, based on the Industrial Average Wage ($28,148) at the end of current studies (students) or at age 16 (youths). In the case of temporary injuries, this is very generous and is a potential barrier to recovery; however it can be inadequate for post-secondary students.

Example
A high-school student is injured just prior to graduation. At the end of the school year, the student is unable to return to school or work and is eligible for the Industrial Average Wage – which is much higher than the student would normally earn at that point in his/her life.

Recommendation
Pay minimum wage ($12,480) to students/youths not able to work at the end of elementary or secondary level studies/age 16, except for those catastrophically injured; for catastrophically injured students/youths, and for those studying at the post-secondary level, pay Industrial Average Wage at end of studies/age 16; allow suing for actual and potential income loss.

Other Alternative
1. Leave as is.

Financial Impact
Actuarial estimate of $142,000/year decrease.

Recommendation 11 – Self-Employed Income Replacement Benefit

Regulation 21
In some cases, self-employed claimants are not reimbursed fairly for their income: some receive too much reimbursement, others not enough. This over- and under-compensation occurs, even though various options are available for calculating the benefit – including several options that use tax returns, a schedule based on the average Saskatchewan income by occupation and level of experience (Appendix A in the Regulations), and replacement labour costs. For example, those reimbursed on the basis of net income may continue to be responsible for certain short-term business expenses (such as rent, insurance and licensing costs) and may be in a worse financial position after an injury. On the other hand, those reimbursed according to Appendix A may be over-compensated if their self-employment earnings are lower than average. Over-compensation can be a barrier to recovery by creating a financial disincentive to returning to work.

Example of Over-Compensation
A self-employed salesman has historically earned $10,000 per year ($15,000 total revenue, less $5,000 total expenses – $2,500 of which are fixed expenses). The average salary for that employment and experience level from Appendix A is $20,000. The injured person chooses to receive an income replacement benefit of $20,000 based on Appendix A and is over-compensated, even after he pays his fixed expenses.

Example of Under-Compensation
A self-employed consultant has historically earned $40,000 per year ($60,000 total revenue, less $20,000 total expenses – $10,000 of which are fixed expenses). The average salary for that employment and experience level is $25,000. No suitable replacement labour is available. In this case, the injured person would choose to receive an income replacement benefit of $40,000 per year, based on his historical earnings. However, he is still responsible for his fixed expenses ($10,000/year for office rent, etc.). These expenses will continue, at least in the short term, until other arrangements can be made. The injured person is left with $30,000 per year after paying his fixed expenses, and is under-compensated.

Recommendation
The income replacement options for a self-employed person should be the greatest of:
1. actual net income (using prior three years' calculations), adding back certain fixed expenses for the first six months only, and paying any lease cancellation costs;
2. Appendix A for that occupation and level of experience, to the limit of actual gross income; however if experience is less than three years, full Appendix A to allow for business start-up;
3. replacement labour.

Calculation of an income replacement benefit for a self-employed injured person should be based on business income, plus actual and reasonable fixed costs. However, actual fixed costs should be included for six months only, after which time other arrangements for those costs should reasonably have been made.

The use of Appendix A should be limited to the highest actual revenue in the period for which actual income is assessed (three years prior to the crash). This will limit over-compensation, while allowing for earning fluctuations and fixed costs remaining as expenses for an injured self-employed person.

1. In the example of over-compensation above, the injured person would receive an income replacement benefit based on the best option of:
   - $10,000 net income, plus $2,500 to cover fixed expenses, ($12,500 in total) for the first six months of disability, after which the benefit would be based on $10,000;
   - $15,000 from Appendix A, since the Appendix A amount of $20,000 is limited to actual gross income; or
   - replacement labour.

The injured person would choose the income replacement benefit based on $15,000 from Appendix A. This amount is higher than actual net income, but takes earning fluctuations and business development into consideration, and provides fair compensation.

2. In the example of under-compensation, the injured person would receive an income replacement benefit based on the best option of:
   - $40,000 net income, plus $10,000 to cover fixed expenses, ($50,000 in total) for the first six months of disability, after which the benefit would be based on $40,000;
   - $25,000 from Appendix A, since the gross income of $60,000 exceeds that amount; or
   - replacement labour.

The injured person would choose the income replacement benefit based on $50,000 and would be compensated fairly.

Other Alternatives

1. Calculate income replacement benefits using the options of actual income and replacement labour only, discontinuing the use of Appendix A.

2. Leave as is.

Financial Impact

Actuarial estimate of – $814,000/year increase.

Recommendation 12 – Benefits Calculated on Employment at Time of Crash

Sections 111 – 113

Income replacement benefits are calculated for injured persons based on their employment at the time of the crash:

1. **Full-time earner** – greater of prior year earnings, or current period earnings multiplied by number of pay periods in a year; minimum of minimum wage ($12,480/year). Continues until able to hold original employment.
2. **Part-time or temporary earner** – same options as full-time earner, plus option of promised employment for the first 180 days, then paid for determined full-time employment that could have been held prior to the crash. Continues until able to perform original or determined employment.

3. **Non-earner** – option of promised employment for the first 180 days, then paid for determined full-time employment that could have been held prior to the crash. Continues until able to perform determined employment.
4. **Caregivers** – for those whose primary responsibility is caring for children, scheduled amount based on the number of dependants they are unable to provide care for. After 180 days chooses between determined income and continued caregiver benefit. Continues until able to care for dependants or able to perform determined employment that could have been held prior to the crash (if that option is chosen).

Employment determinations are problematic:

- Non-earners, who may have no intention of ever working outside the home, are rehabilitated to meet the job requirements of a certain employment, rather than rehabilitated to perform the activities of daily living or homemaking duties.
- Employment determinations and their associated income calculations are complicated and confusing to the injured person, who may be required to supply a five-year employment history.
- A person who is over age 65 at the time of the crash is entitled to an income replacement benefit after 180 days based on a job they could have held prior to the crash. In many cases, the injured person never worked or is retired and has no intention of working again. To determine entitlement to benefits, SGI must ask the injured person's practitioner about capability of holding employment. The medical community is critical of these requests.
- Determined income benefits may not be reduced by a partial ability to return to the activities of daily living or homemaking duties, or by a partial ability to hold employment if there is not an employment for the injured person to return to (as with a non-earner). This can become a barrier to recovery.

Examples

- A homemaker, still disabled 180 days after a crash, is determined into a minimum-level employment of full-time sales clerk and paid an income replacement benefit based on that employment. Rehabilitation efforts are directed to allowing the injured person to perform sales clerk employment, rather than return to homemaking duties.
- An injured person who has retired, with no intention of seeking further employment, is determined into a minimum-level employment and rehabilitated until able to perform that employment, rather than to return to the activities of daily living.
- A part-time earner still disabled after 180 days must supply an employment history to aid in calculation of the determined income replacement benefit. In the great majority of cases, the income replacement benefit after 180 days is increased to minimum wage (the minimum to be paid to a full-time earner) or remains the same.
- A non-earner determined into a minimum-level job at 180 days may be partially able to perform that employment, but will continue to earn the full income replacement benefit until substantially able to perform the employment because there is no provision to reduce the income replacement benefit (unless income is earned by a partial return to work).

Recommendation

Eliminate earner-type definitions and 180-day employment determination provisions.

For injured non-earners under age 65 (e.g., homemakers) who have not displayed an intention of working in the past year, pay no income replacement benefit for the first 180 days. After the first 180 days, pay minimum wage until substantially returned to the activities of daily living or homemaking duties, whichever applies.

For injured non-earners under age 65 who have displayed an intention of working in the past year, pay an income replacement for the first 180 days based on promised employment, if any. After 180 days, pay the greater of minimum wage or annual income from employment in the year prior to the crash, until substantially able to perform the duties of their employment. For those over age 65, pay no income replacement benefit.

For any injured persons earning employment income at the time of the crash, or with promised employment in the first 180 days, pay an income replacement for the first 180 days based on that employment. After 180 days, pay the greater of minimum wage or the income replacement paid for the first 180 days, until substantially able to perform the duties of their employment. For those over age 65, pay income replacement benefits at that rate for a further six months, then step down the benefit each year until completed at age 69.

For caregivers, pay benefits based on actual and reasonable expenses for providing care, within limits. After 180 days, pay the greater of minimum wage or actual and reasonable expenses.

Pay pension replacement benefits after age 65 if the injured person received an income replacement benefit for the previous five years or more.

For catastrophically injured persons, as will be medically defined, pay the minimum of the Industrial Average Wage ($28,148) from the date of the crash, or at the end of studies for students, or at age 16 for youths.

Other Alternative

1. Leave as is, including employment determinations at 180 days. Pay the income replacement benefit to any injured person, regardless of age, if they are disabled past 180 days.

Financial Impact

Actuarial estimate of $618,000/year decrease.

Recommendation 13 – Moving the Caregiver Benefit to Income Replacement

Section 159

During the first 180 days after a crash, part-time and non-earners whose main occupation is caring for others can choose to receive a caregiver benefit instead of an income replacement benefit. After 180 days, the injured person can choose between the caregiver benefit and income from a determined employment. However, there is no provision for replacing the caregiver benefit with an income replacement benefit if the injured person is still disabled when no longer caring for others, or for reducing the caregiver benefit by the residual capacity of the injured person. In addition, the caregiver benefit is currently classified as a rehabilitation expense and unfairly reduces the rehabilitation benefits available to the injured person.

Examples

1. An injured person elects to receive a caregiver benefit for the first 180 days, as well as continue the benefit after 180 days while caring for one dependant under age 16. The injured person is still disabled when the child turns 16, but is no longer eligible for the caregiver benefit. There is currently no provision for an income replacement benefit to replace the caregiver benefit at that point.
2. An injured person elects to receive a caregiver benefit for the first 180 days, as well as continue the benefit after 180 days while caring for a disabled dependant. After two years, the injured person is still unable to care for the dependant but is capable of holding minimum-level employment. There is no provision for reducing the caregiver benefit by the injured person's residual earning capacity (as there is with income replacement). This creates a financial disincentive to rehabilitation.

Recommendation
Move the caregiver benefit section into the income replacement benefit division, and allow for reversion to an income replacement benefit when the injured person no longer cares for others, and for reducing the benefit for residual earning capacity. Benefits paid under income replacement do not affect the rehabilitation limit, so caregivers will then be treated like those earning an income.

Other Alternatives
1. Leave the caregiver benefit as a rehabilitation benefit, but allow for reversion to an income replacement benefit when the injured person no longer cares for others.

2. Leave as is.

Financial Impact
Actuarial estimate of $483,000/year increase.

Recommendation 14 – Caregiver Benefits Reduced for Partial Ability

Section 159
Caregiver benefits are based on the number of persons cared for, regardless of the age or disability of the dependants. The benefit is $325 up to $433 per week, depending on the number of dependants requiring replacement care. Actual expenses are not considered, as per the legislation. These benefits are excessive when those cared for are older children, who are likely to take care of some of their own needs. In addition, there is no provision for reducing the benefit when the caregiver is partially able to return to caring for dependants. Over-compensation can provide a barrier to recovery.

Example
The caregiver of a two-year-old child must perform many duties that are unnecessary for the caregiver of a 15-year-old child, yet they receive the same benefit if unable to care for the child. The caregiver may also be partially able to care for a dependant, but is eligible for a full caregiver benefit.

Recommendation
Pay caregiver benefits according to actual and reasonable expenses, within limits. Those with more care duties will then receive higher benefits. Also, a partial ability to return to caregiving will be compensated fairly.

Other Alternatives
1. Pay caregiver benefits according to a grid, which adjusts for difficulty of caring for the dependant.

2. Leave as is. Pay caregiver benefits according to the number of persons cared for.

Financial Impact
Minimal.

Recommendation 15 – Family Enterprise Benefit

Sections 162, 141

The family enterprise benefit reimburses a person for unpaid work in a family business. It allows for paid labour to do the work an injured person would have done, but for his or her injury. This benefit is similar to the replacement worker benefit, which is an option for a self-employed person instead of an income replacement benefit. Presently, the family enterprise benefit is being treated as an expense and the money paid out reduces the total amount of medical and rehabilitation coverage available. This is not fair, as the benefit is essentially an income replacement payment and should not affect medical and rehabilitation coverage. In addition, the family enterprise benefit is only available for 180 days, as it assumes that the injured person will be determined into an employment and the resulting income replacement benefit will take the place of the family enterprise benefit. This is not the case with students, as a determination does not need to be completed until the end of studies.

Example

A student who helps on the family farm is injured in a crash. He is entitled to a family enterprise benefit to replace his labour for 180 days only. The student is not recovered at 180 days and is not entitled to an income replacement benefit.

Recommendation

Move the family enterprise benefit into the income replacement benefit section (the same as the replacement worker benefit). Allow the benefit to be paid until the injured person is recovered or is entitled to an income replacement benefit.

Other Alternative

1. Leave the family enterprise benefit as is.

Financial Impact

Minimal.

Recommendation 16 – Replacement Worker Benefit

Section 141

A self-employed injured person who is eligible for an income replacement benefit may instead choose to hire replacement labour to a maximum of $596 per week. This choice is irrevocable. It is not clear if the replacement worker benefit, like the income replacement benefit, is to be subject to a seven-day waiting period from the time of the crash.

If the person choosing the replacement worker is still disabled after two years, it is not clear whether a reduction for residual capacity can be made.

When a replacement worker is hired, PIPP does not pay the cost of employer EI or CPP premiums directly to Revenue Canada on behalf of the replacement worker, which results in less income available to pay the replacement worker.

When an injured worker holds two separate jobs, it should be clarified that they are allowed to make the election for a replacement worker at each job.

If a person opts for a replacement worker, there is no provision for reducing their benefit for their ability to work at a different job. A provision should be added stating that if the person is still not recovered after two years, they must be assessed to determine residual capacity.

Recommendation
Clarify the seven-day waiting period for the replacement worker benefit; establish a residual capacity evaluation for injured persons receiving replacement worker benefits; pay employer CPP and EI premiums directly to Revenue Canada when there is proof of payment; allow for a replacement worker for each job that an injured person holds.

Other Alternative
1. Leave the replacement worker benefit as is.

Financial Impact
Minimal increase.

Recommendation 17 – Lost Scholarship Income

Section 111
There is no coverage for income loss other than employment income. However, certain other types of losses, such as loss of scholarship income, create hardships for injured persons. SGI's current practice is to pay for proven lost scholarship income.

Example
A student could lose income from a sports scholarship if they are unable to participate in sports, due to a motor vehicle injury. There is no coverage for this type of loss in the legislation.

Recommendation
Include as a benefit a lump sum payment for any actual scholarship income lost due to an injury.

Other Alternative
1. Leave as is. Do not pay any income other than employment income.

Financial Impact
None.

Recommendation 18 – Books and Tuition

New Regulation
There is no coverage for book and tuition expenses for students. A loss of studies benefit is paid to students who must miss school as a result of a crash, but this benefit is meant as an income replacement for time they will not be in the workforce. Current practice is to pay for lost book and tuition expenses.

Example
A student pays for books and tuition at university and is injured halfway through the course. There is no longer a refund available for the tuition paid, and the student does not receive a mark for the course. The student will receive a loss of studies benefit, but has lost the tuition fees and book expenses.

Recommendation
Pay for any non-refundable book and tuition expenses for all students, including part-time students (formal education only, not recreational).

Other Alternative
1. Leave as is. Do not pay for book and tuition expenses.

Financial Impact
None.

Recommendation 19 – Residual Capacity Determination

Section 139
When an injured person is entitled to an income replacement benefit, and is still unable to perform their employment two years after the crash, their ability to work will be examined. If it is determined that the injured person is capable of working at a job, but not able to earn the same money as before the crash, an income replacement benefit will be paid to top up the difference. The calculation used to determine this amount is not clear. In addition, some injured persons choose to be under-employed; for example, choosing self-employment with little earnings instead of a higher-paying salaried job.

Example
An injured person is entitled to an income replacement benefit of $500/week. Two years after the crash he/she is still not able to return to his/her original employment, but can hold a position earning less than the original employment – calculated using average salaries by occupation as $250/week. Subsequently, the earner obtains the determined employment and earns $300/week. It is unclear how the residual income replacement benefit should be calculated.

Recommendation
To determine income to be paid to an injured person with the ability to perform a lower paying job, reduce the original income replacement benefit by the greater of the scheduled average amount for that job classification or actual income earned (in the example above, by $300/week). This will allow a fair income reduction for those who choose to be under-employed. For self-employeds, the actual income will be calculated by adding in fixed expenses (as described in Recommendation 11 on paying the income replacement benefit to self-employeds).

Other Alternatives
1. Reduce the original income replacement benefit by the scheduled amount for that job classification (in the example above, by $250/week).

2. Reduce the original income replacement benefit by actual income earned (in the example above, by $300/week).

3. Leave as is.

Financial Impact
Minimal.

Recommendation 20 – Reimburse Time for Medical Appointments

Regulation 43

There is no provision to pay an income replacement benefit for work missed as a result of attending medical appointments. It is SGI's current practice to pay such a benefit. This may encourage attendance at a treatment program, which could result in people recovering faster.

Example

An injured person who works full time and takes time out of their work day to attend medical appointments is not eligible for income replacement benefits, since he or she is not substantially unable to hold employment. The person may lose pay or sick leave credits as a result.

Recommendation

Pay an income replacement benefit for time taken to attend medical appointments during work hours.

Other Alternative

1. Leave as is.

Financial Impact

None.

Recommendation 21 – Return-to-Work Benefit

Section 140

When a person who has been receiving an income replacement benefit begins a return-to-work program, his/her income replacement benefit is reduced by only 75% of the net income he/she receives, as an incentive to return to work. This level of reduction has been identified as a barrier to recovery.

Example

An injured person is receiving an income replacement benefit of $200 per week. The person is participating in a gradual return-to-work program and is working halftime and earning $100 per week. The income replacement benefit is reduced as follows: $200 – ($100 x 75% = $75) = $125. The injured person therefore receives $100 from his employer and $125 in income replacement benefits, for a total of $225 – higher than the $200 in income replacement benefits he would receive if off work full time.

Recommendation

Increase the income replacement reduction percentage for persons returning to work part time to 90% of net income received, reducing the additional income received by the injured person, but leaving some incentive to return to work part time.

Other Alternatives

1. Increase the percentage to 80%.

2. Leave the percentage at 75%.

Financial Impact

Actuarial estimate of $73,000/year decrease.

Recommendation 22 – Death Payments for Low- or Non-Earners with Dependants

Section 146

The surviving spouse of a person killed in a crash is provided with a death benefit based on half the income replacement benefit the deceased would have received if he/she had lived. The minimum death payment for a surviving spouse is $48,764. No death benefit is payable for dependants. This amount does not cover the economic impact of the person's death in some instances.

Example

A homemaker with three small children is killed in a crash. The spouse is entitled to the lump sum benefit of $48,764. If a retired homemaker, with no children at home, is killed, the same lump sum benefit is payable to the spouse. In the case of a non-earner with dependants, the minimum death benefit may not cover the economic impact of the person's loss.

Recommendation

For low- and non-earners with dependants, pay (in addition to the minimum death benefit) a death benefit for each dependant based on minimum wage and the age of the dependant.

Other Alternative

1. Continue to pay a lump sum minimum death benefit for low- and non-earners.

Financial Impact

Actuarial estimate of $363,000/year increase.

Recommendation 23 – Death Payments for Non-Earners Temporarily Unemployed or Under-employed

Section 146

The surviving spouse of a person killed in a crash is provided with a death benefit based on half the income replacement benefit the deceased would have received if he/she had lived. The minimum death payment for a surviving spouse is $48,764. This would not be fair if the deceased had been recently unemployed or under-employed, and intended to continue working at their previous level.

Example

A deceased person had been laid off from their job a month prior to the crash and had either obtained a temporary part-time job, or was unemployed but had been applying for other positions. Although they intended to continue working at their previous level, the spouse will be paid the minimum death benefit.

Recommendation

If the deceased held employment in the prior year and had displayed an intention to hold employment, allow the death benefit calculation to be based on annual income from previous employment. If the deceased was on a formal leave from employment, pay a death benefit based on the last annual income earned.

Other Alternative

1. Leave as is. Continue to pay the minimum death benefit for low- and non-earners.

Financial Impact

Actuarial estimate of $272,000/year increase.

Recommendation 24 – Minimum Death Benefit For Persons With No Dependants

Section 149

The death benefit payable to the estate of a person with no dependants is $10,836. This is very minimal, compared to the death benefits provided to spouses of deceased persons. Quebec pays $40,000 to the estate (recently increased from $18,420), while Manitoba pays about $5,500 to each non-dependant parent or child of the deceased.

Examples

1. A single person with grown children earns $50,000 per year. She expects to help her children financially in the future. If this person is killed in an automobile crash, the estate would receive $10,836 – leaving the grown children without the financial assistance they would have received.

2. A single person has aging parents who will depend on that person for care in the future. If the person is killed in a crash, the estate would receive $10,836, which would not cover the cost of care that would have been supplied by the deceased.

Analysis

This benefit has been criticized as discriminating against single people, given the level of benefit provided to those with spouses. The estate of the deceased person with no dependants would not have received a benefit under the tort system because there is no one with a current economic loss. Manitoba's minimum death benefit has also been criticized as being too low. In Manitoba, more is paid for the loss of a fetus, under permanent impairment, than for the loss of a child (Saskatchewan pays $9,482 for loss of a fetus). Manitoba is considering increasing its death benefit to between $10,000 and $40,000 per non-dependant parent or child. Quebec's rationale for increasing its benefit level relates to a current upward trend in non-economic compensation for relatives, awarded by Quebec tribunals in cases of death falling outside Quebec's no-fault automobile injury plan.

Recommendation

Pay $10,836 to each non-dependant legal parent or child of the deceased. Pay to a maximum of $48,764 (to be distributed equally amongst the survivors) in the case of five or more non-dependant legal parents or children. In the absence of any parent or child, pay the minimum $10,836 to the estate.

Other Alternatives

1. For deceased persons age 16 or older with no dependants, but with surviving immediate family, increase the death benefit to the same level as the minimum payment when there is a surviving spouse ($48,764).

2. Leave the minimum death benefit at $10,836.

Financial Impact

Estimated at $984,000/year increase.

Recommendation 25 – Funeral Benefits

Sections 150, 103

Funeral benefits are paid as a lump sum of $5,419. This amount is inadequate to cover actual funeral expenses in most cases.

Example

The average cost for funeral expenses is approximately $7,500.

Recommendation

Increase the funeral expense benefit to $7,500 and allow excess costs to be recovered by the estate of any deceased person not at fault for the crash from the at-fault party.

Other Alternatives

1. Leave the funeral benefit at $5,419 and allow any excess costs to be recovered by the estate of any deceased person not at fault for the crash.

2. Increase the funeral expense benefit to $7,500.

3. Leave the funeral benefit at $5,419.

Financial Impact

Estimated at $450,000/year increase.

Recommendation 26 – Definition of Dependant

Section 100(1)(i)

Death benefits can be denied to children where there is no court order for support by the deceased parent. Dependant is defined as a child of a deceased person who, at the time of the crash, was dependent on the deceased for food, clothing, etc. This is not fair, as those children whose parents were not paying child support are not entitled to death benefits (even though support may have been paid in the future). SGI's current practice is to pay benefits. Also, it should be clarified that death benefits will be paid for a fetus once the child is born, which is current practice.

Examples

1. For a variety of reasons, the surviving spouse may not consider obtaining a support order for the child.

2. The deceased may have refused to comply with a court order for support, or made his or her assets unavailable so that a court order would be ineffective.

Recommendation

Pay the dependant death benefit for the child of a deceased regardless of proof of dependency; pay for a fetus once the child is born.

Other Alternative

1. Leave as is. Pay dependant death benefits only with a court order for child support.

Financial Impact

Actuarial estimate of $118,000/year increase.

Recommendation 27 – Definition of Spouse

Section 100(1)(u)(ii)

A spouse is currently defined as "the husband or wife of the person, or; a person with whom the deceased cohabits or has cohabited as a spouse, for a period of at least two years, or; a person with whom the deceased cohabits or has cohabited as a spouse for a period of at least one year, if they are the parents of a child." This definition can be interpreted too broadly and does not take into account situations where a husband and wife are separated, or in the process of a divorce, at the time of the crash. The definition could also allow persons who previously cohabited with the deceased to claim benefits. In addition, the courts have allowed a former common-law spouse with a dependant to be considered a spouse, if that person could have been eligible for maintenance payments.

Example

Two people are separated, but not officially divorced. At the time of the crash, they had not cohabited for several years and there are no alimony payments or dependent children. The surviving "spouse" is entitled to death benefits, even though he or she may be living with someone else.

Analysis

In Canada, the waiting period for a divorce is one year. In Manitoba and Quebec, a spouse must have been cohabiting at the time of the crash to receive benefits. Former spouses are also not recognized in the legislation governing Workers' Compensation and fatal accidents in Saskatchewan.

In cases of separation where children are involved, a spousal benefit is paid to the children.

The current legislation appears to be adequate with regards to same-sex spouses, since it does not refer to spouses as being of the opposite sex.

Recommendation

Add a "separation" clause specifying that a spouse loses the right to benefits when there has been a separation of one year or longer and there are no alimony payments or dependent children (this clause should also apply to common-law spouses). Change the wording to eliminate possible claims by those who previously cohabited with the deceased.

Other Alternative

1. Leave the definition of spouse as is.

Financial Impact

Actuarial estimate of $160,000/year decrease.

Recommendation 28 – Death Payments to Former Spouses

Section 145(b)

Current legislation allows for payment of a spousal death benefit – at 50% of the income replacement benefit that would have been earned by the deceased – to a former spouse who was receiving alimony payments from the deceased at the time of the crash. The benefit amount is the same as for a current spouse and is excessive for those receiving minor alimony payments.

Example

A former spouse receiving a minor amount in alimony will receive an average of more than $200,000 as a death benefit, if the deceased was earning employment income at the time of the crash. Conversely, a former spouse receiving large alimony and maintenance payments may receive a benefit which is unfairly low.

Recommendation

Calculate the death benefit for a former spouse using alimony and maintenance payments as the basis, instead of 50% of the income replacement benefits the deceased would have received. The minimum death benefit ($48,764) would apply, as would the maximum yearly income for income replacement benefits ($56,855). Calculations for alimony would be for the life of the spouse, while those for maintenance would be until dependent children reached age 21.

Other Alternative

1. Continue to pay the same death benefits to former spouses and current spouses.

Financial Impact

Actuarial estimate of $599,000/year decrease.

Recommendation 29 – Vocational Counselling for Death Education Benefit

Regulation 35

In the case of death, a dependent spouse is offered $32,509 for retraining to help become self-sufficient. The spouse may be in need of vocational counselling to help choose a career, but the cost of counselling is not included as a benefit.

Example

A dependent spouse may have little vocational experience outside the home and may not know where to start when considering educational options. Vocational counselling may help the person choose an appropriate occupation, as well as a suitable institution to provide training for that occupation.

Recommendation

Provide a vocational counselling benefit for dependent spouses of deceased persons, to a limit of $500.

Other Alternative

1. Leave as is, providing no benefit for vocational counselling for dependent spouses of deceased persons.

Financial Impact

Minimal increase.

Recommendation 30 – Grief Counselling for Family

New Regulation

In the case of death, the family may be in need of grief counselling. This is not identified as a benefit, but current practice is to offer the counselling. Most counselling is provided free of charge by the Mental Health Association, so a benefit for this counselling is not often necessary. However, when provided by a private counsellor, grief counselling may cost up to $1,000 per claim, depending on the circumstances and the number of family members who require counselling.

Example

The family members in a death situation may not have been involved in the crash and therefore do not have counselling benefits available under their claim. However, the counselling may be necessary for their emotional well-being.

Recommendation

Provide benefits for grief counselling from a professional counsellor for immediate family members (to be defined) of a deceased person, to a limit of $1,000 per claim.

Other Alternative

1. Leave as is.

Financial Impact

None.

Recommendation 31 – Financial Counselling

New Regulation

In the case of death, a lump sum may be offered to the spouse of the deceased as an alternative to bi-weekly payments. The spouse is often unsure which option to choose, how to deal with the lump sum and the tax implications.

In the case of a severe injury, a significant lump sum is provided as compensation for permanent impairment. The injured person, particularly if brain injured, may be unsure how to deal with the money.

In the case of young people receiving a significant income – such as a catastrophically injured youth at age 16 who will receive an income based on the Industrial Average Wage – the benefit amount may be overwhelming and can be detrimental to their recovery. In particular, the brain injury community has indicated that the recovery of brain injured young people is adversely affected by this income. Current legislation does not allow this money to be paid to another agency to be held in trust.

Example

Death benefits to the spouse of an income earner average more than $200,000, and current lump sums for severe permanent impairments can reach over $135,000. These amounts are significant and their use or misuse can financially affect the recipient for life. For example, if a brain injured youth misspends his benefits, this will not only deplete his resources, but may also inhibit his rehabilitation.

Recommendation
Offer financial counselling, to a limit of $500, for anyone receiving a significant lump sum benefit, or anyone under age 21 receiving a long-term income. Consider legislation that would allow payments to be made to a trust fund, administered by a guardian, for those considered unable to manage their money.

Other Alternative
1. Leave as is, offering no benefit for financial counselling.

Financial Impact
Minimal increase.

Recommendation 32 – Death Benefits Payable to Dependants

Section 146(5)
Death benefits for dependent children are paid to the surviving spouse, regardless of whether the spouse cares for the child subsequent to the crash. In rare instances, the child may not receive any of the benefits they were intended to receive.

Example
A person dies leaving two children and a spouse. The death benefit is paid to the surviving spouse; however, the care of the children after the crash is transferred to the grandmother and the children may not receive any monetary benefits.

Recommendation
If the guardian is not the spouse, pay the dependant death benefit for the children to the Public Trustee. The Public Trustee should be specifically directed to use the funds to pay for maintenance of the children.

Other Alternative
1. Leave as is, since the surviving spouse cares for the children in most cases.

Financial Impact
None.

Recommendation 33 – Additional Dependants

Section 147
Death benefits are paid on behalf of dependants under age 21, but there is no provision for death benefits on behalf of dependants over age 21. This may be unfair to disabled dependants and elderly parents who were being cared for by persons killed in a crash.

Example
A parent dies in a motor vehicle crash leaving a dependent disabled child over age 21. There are no longer any funds available to sustain the dependant and he or she will have to depend on other governmental agencies for support.

Recommendation
Change the definition of dependant to include those mentally or physically disabled over age 21, and pay a dependant death benefit to those dependants over age 21 for life or until no longer disabled.

Other Alternative
1. Leave as is. Do not pay for dependants over age 21.

Financial Impact
Actuarial estimate of $56,000/year increase.

Recommendation 34 – Permanent Impairment Benefits

Sections 153 – 156; Appendix B

Permanent impairment benefits are paid to persons who sustain permanent injuries in a motor vehicle crash. Benefit amounts are determined using a schedule with a limit of $135,456 (indexed to inflation) and are based on "percentage of whole body impairment." The schedule has some inconsistencies when compared to other jurisdictions, in particular benefits paid for scarring to areas other than the face.

Maximum benefits are also inadequate in the current schedule. The highest value for pain and suffering was prescribed by three Supreme Court cases in the 1970s as $100,000. The present day value of this amount exceeds $250,000. While Manitoba and Quebec provide maximum permanent impairment benefits of $110,000 and $175,000 respectively, SGI is of the view that providing a maximum permanent impairment benefit which reflects the present day value of the court award is appropriate and affordable.

Example
Based on the current schedule, one area of non-facial scarring can reach 30% of the maximum permanent impairment benefit, resulting in a payment of $40,637.

Based on the current schedule, amputation below the knee is 30% of the maximum permanent impairment benefit, resulting in a payment of $40,637.

A person suffers severe brain injury in a crash. The person would receive 100% of the maximum amount of $135,456 based on the current schedule.

Recommendation
Adopt the new Manitoba permanent impairment schedule, compiled by medical experts in that province. While facial scarring will remain unchanged, the new schedule will reduce compensation for scarring other than facial to more appropriate limits (about half of present amounts). The schedule is also more readable and less open to interpretation, since ranges of compensation are reduced. In addition, double the maximum permanent impairment amount to $270,000 for catastrophic injuries.

Other Alternative
1. Leave the permanent impairment limit at $135,456.

Financial Impact
Actuarial estimate of $631,000/year increase.

Recommendation 35 – Table of Successive Remainders for Calculating Permanent Impairment

Appendix C

The table of successive remainders is used to calculate the total permanent impairment benefits paid when a person sustains more than one injury. SGI uses the table for injuries only when they are greater than 5% of whole body impairment. Those injuries that are 5% or less are calculated and simply added to the first figure. When this method is used, there are instances where the result is more than 100%.

Example

A quadriplegic injury is 95% and vision loss is 40%. Using the table, SGI determines a permanent impairment value of 97%. In addition to these impairments, scarring is determined at 4%. Since the value is less than 5%, it is added to the 97% permanent impairment value, which adds up to 101%.

Recommendation

Change the table of successive remainders to allow for proper calculation of the permanent impairment benefit. This is the same calculation method used in the American Medical Association guidelines.

Other Alternative

1. Leave as is.

Financial Impact

Minimal decrease.

Recommendation 36 – Economic Loss for Income Replacement Benefits

Section 103

Persons not responsible for a crash can sue the at-fault party for income loss in excess of the maximum covered by PIPP, including earning potential in future years. However, suing under tort is allowed only for income loss in excess of the maximum yearly insurable earnings ($56,855). The difference between actual earnings and maximum limits is not recoverable.

Example

A woman earning $30,000 a year at the time of the crash expected to earn $50,000 a year in the future. However, suing under tort is allowed only for income loss in excess of the maximum yearly insurable earnings ($56,855). The woman cannot recover the $20,000 per year difference between her earning potential and what she earned at the time of her injury.

Recommendation

Allow injured persons to sue for actual and potential income loss in excess of PIPP benefits, as is allowed for death claims.

Other Alternatives

1. Allow injured persons to sue for proven earning potential in excess of PIPP income replacement benefits only in the case of catastrophic losses (to be medically defined).

2. Leave as is. Allow injured persons to sue only in excess of the maximum yearly insurable earnings.

Financial Impact

Actuarial estimate of $941,000/year increase.

Recommendation 37 – Economic Loss – Tort Actions

Section 102

The legislation excludes the right to sue for bodily injuries that result from an automobile crash. However, an injured person can sue for losses over and above PIPP benefits:

- any loss of income over and above the maximum yearly insurable earnings;
- any loss of income in excess of death benefits paid;
- any medical expenses in excess of PIPP benefit limits; and
- persons injured in an automobile crash and covered by *The Workers' Compensation Act* are entitled to recover any income loss over and above benefits provided under that Act, any loss over and above death benefits paid under that Act, and any actual and reasonable costs for medical aid in excess of those paid under that Act.

An argument can be made that PIPP protects third parties, such as body shops, automakers and rural municipalities, from litigation for negligence. The legislation does, however, allow subrogation of PIPP benefits paid when an out-of-province person is responsible – meaning benefits could be recovered from entities such as automakers based out of province, if they are determined to be responsible for the crash.

Example

A crash may be caused by the negligence of a third party, but the right to sue is denied. For example, if a wheel falls off a car due to the negligence of a repair shop, the injured person will be entitled to benefits, but will not be able to sue the repair shop. Outside Saskatchewan, the law of that jurisdiction applies and the injured person may be able to sue the third party for excess damages. Within Saskatchewan, SGI has subrogation rights against any out-of-province responsible third party.

Analysis

The intent of no-fault injury insurance is to provide injury benefits to all persons regardless of responsibility for the crash. It could be argued that no-fault injury insurance protects third parties from liability.

One of the primary focuses of PIPP is to dedicate significant resources to rehabilitation to restore health-related quality of life to the greatest extent possible. Research has shown that the right to sue for pain and suffering is a barrier to recovery as it adversely affects rehabilitation.

By limiting the right to sue to cases of catastrophic injuries or death and allowing subrogation, the barrier to recovery that arises is minimized – yet third parties, other than the driver or vehicle owner, are liable for their actions.

Recommendation

Allow lawsuits for acts of negligence caused by a third party, other than the driver or owner of a vehicle, only in the case of catastrophic injuries or death. Allow subrogation against those parties.

Other Alternatives

1. Allow lawsuits for acts of negligence caused by a third party, other than the driver or owner of a vehicle, and allow subrogation against those parties (actuarially costed as a savings of $1.1 million/year).

2. Leave as is.

Financial Impact
Minimal decrease.

Recommendation 38 – Appeal Process

Section 196
Currently, an injured person may dispute any decision by SGI. An application requesting an internal review (with or without a hearing) must be completed within 60 days of receiving the decision letter. The SGI review officer reviews the file, or attends a hearing with the injured person and any person they wish to bring. A written decision is made to set aside, confirm or vary the original decision.

If the injured person is still not satisfied, he or she can apply within 30 days to have the dispute mediated for a $38 fee. A mediator is agreed upon by the insurer and the injured person, with the costs of mediation borne by the insurer (mediation is optional – the appellant may skip this part of the appeal process).

If the injured person still disagrees with the decision (after the internal review or mediation) he or she can appeal to the Court of Queen's Bench within 90 days of receiving the decision. The Court may award interest on any benefits not paid that it decides should have been paid. The insurer or the injured person may appeal a Queen's Bench decision to the Court of Appeal, but only on a matter of law or jurisdiction.

The internal review (the first stage of appeal) appears to work well, but there is a concern that it is not impartial. Only 4% of injured persons have appealed their claims in the first five years of PIPP. The mediation component is not working as intended: in most cases a consensus is not reached since benefit amounts are not negotiable. There are concerns about the cost, lack of timeliness and intimidation of proceeding to the courts.

Example
Mediation has proven to be ineffective. As a result, few claims are taken to mediation, and very few result in a varied decision. Another concern is the amount of time a person may spend appealing a decision. If they proceed to the Court of Queen's Bench, it is often one year from the date of the initial decision before a judge hears the appeal. The cost of appealing to the courts can also be prohibitive.

Analysis
The appeal commission in Manitoba: (1) is independent of Manitoba Public Insurance (MPI) and is less intimidating; (2) has three independent individuals listen to an appellant's concerns and ensure that he or she has been treated fairly; and (3) provides an appeal at no cost to the injured person unless they want to hire a doctor or lawyer to represent them. However:

- the cost of the commission is more than $500,000 annually;
- there have still been many cases where the impartiality of the commission has been questioned, since the cost to the government is reimbursed by MPI;
- commission members find they do a lot of "hand holding" to assist the injured person in the process;

- when a decision is overturned by the commission, it is often because there was not enough information available to the person making the decision. Commission investigations often become fact-finding missions that may have had the same results if the case had been properly investigated prior to coming to the commission;
- since there is no cost to the injured person, frivolous claims can be presented to the commission; and
- the delay in hearing appeals does not appear to be any shorter for the commission than for the courts.

Recommendation
Create an independent commission (as in Manitoba and Quebec) with a separate legal and physical office and reporting to a different minister. Staffed by lawyers, physicians, insurance workers, etc., the commission would replace the mediation and Court of Queen's Bench stages of appeal. The commission would be provided with specific terms of reference and required to keep its decisions within the boundaries of the PIPP legislation. Injured people who are unhappy with the outcome of their internal review could appeal to the commission. The commission's decisions would be binding and the insurer or injured person could appeal a decision of the commission to the Court of Appeal *only* on a question of law or jurisdiction. Allow the injured person to choose between appealing to the commission and to the Court of Queen's Bench.

Other Alternatives
1. Create an independent commission as in the recommended alternative above, which would hear *all* appeals going past the first level of internal review (i.e., no option of appealing an internal review to the Court of Queen's Bench).

2. Replace mediation with an independent advocate offered and accessible to all injured people. The advocate could help an injured person make sure there have been no errors in the file, and ensure the person understands the scope of the legislation. If the file has enough merit to proceed in the appeal process, the advocate could direct this person on how to appeal to the Court of Queen's Bench and what type of information would be needed to proceed. In addition, make a lawyer available, such as those with Legal Aid, to make appealing to the Court of Queen's Bench more accessible. Advocates are used by Workers' Compensation but have been found to be ineffective and to cause delays.

3. Leave the appeal process as is.

Financial Impact
Estimate of $500,000/year increase.

Recommendation 39 – Time Limit for Response to Review

Regulation 94
Although the injured person has a 60-day time limit from the date of an SGI decision in which to file a request for an internal review, SGI has no time limits for its response.

Example
Delays in responding to a request for a review have occurred when hearings are requested (for example, when travel by the review officer is required).

Recommendation
A deadline of 60 days should be set for SGI's response after receiving a review request. However, extend SGI's deadline for situations where the injured person supplies new information at the review hearing, is unavailable for a review hearing or where new information must be obtained. The deadline could also be extended by mutual agreement.

Other Alternative
1. Leave as is, with no imposed deadline for SGI's response.

Financial Impact
None.

Recommendation 40 – Payment of Interest on Successful Review

Section 195

If an injured person is successful at the first stage of appeal (the internal review) and back payment of benefits is awarded, there is no provision for payment of interest on those benefits. Interest is paid if an appeal is successful at the Court of Queen's Bench. In both cases, the injured person receives benefits which should have been paid earlier. Current practice is to pay interest at the review stage or at any earlier time where a decision is made to provide back payment of benefits.

Example
In cases where benefits were terminated and reinstated after new medical information became available, back payment of benefits is made.

Recommendation
Pay interest on back payment of benefits at the review stage when a review is successful.

Other Alternative
1. Leave as is, with no payment of interest on successful reviews.

Financial Impact
None.

Recommendation 41 – Travel and Income Replacement Benefits to Attend Review

Section 195

There is no provision for payment of an injured person's travel and/or income replacement costs to attend a review hearing. This expense may be a barrier to an injured person asking for a hearing when requesting a review of a decision.

Example
Injured persons in remote areas will incur costs if they attend review hearings in major centres. Most injured persons will incur some type of expense to attend a hearing, and if employed may be absent from work. If they were attending rehabilitation treatment, these costs would be paid.

Recommendation
Actual and reasonable travel costs (including mileage), meal and lodging costs, and income replacement, should be paid to injured persons who attend review hearings, whether or not the review is successful.

Other Alternatives

1. Pay reasonable and actual travel and salary costs only for successful review hearings.

2. Leave as is, with no payment for travel or salary costs to attend a review hearing.

Financial Impact
Minimal increase.

Recommendation 42 – Intentional Acts

Section 105
No benefits are payable to an injured person or dependant in the case of an intentional act by the injured person or dependant. This exclusion is meant to apply only to suicide. Other deliberate acts are treated like any other crash – i.e., there is no right of recovery against the person causing the injury. If a criminal act is involved, the criminal courts will mete out punishment. The public has expressed the view that when deliberate injuries are caused using a motor vehicle, the victim should be allowed to sue the person causing the injury for pain and suffering.

Example
A driver intentionally pinned another person to a wall with his vehicle, causing injury. The injured person could not sue for pain and suffering, but was paid PIPP benefits based on the injuries.

Analysis
Allowing suing for pain and suffering adversely affects rehabilitation. Research has proven that recovery from injuries is quicker when there is no payment for pain and suffering. Allowing suing would affect the universality of the system, paying benefits based on whether there is someone to sue rather than on the injury and its effects. It would result in those people who can sue for pain and suffering approaching their rehabilitation differently, since the longer they are disabled, the larger the settlement they will receive. There have been cases where deliberate injuries using an automobile are caused by the spouse of an injured person and are instances of domestic violence. In these cases, the spouses often remain together, and recovering the benefits paid from the spouse causing the injury would cause financial hardship to the injured person. In such cases, it would not make sense to recover the benefits paid.

Recommendation
Allow recovery of benefits paid from any person criminally responsible for deliberately causing injuries. "Deliberate action" would be defined as not including drinking and driving or speeding, but would include any action directed at injuring another person. This recovery would be at the discretion of the insurer.

Other Alternatives

1. Allow suing for pain and suffering in the case of deliberate actions. The reasoning would be that it is not an "accident" and does not fall under the PIPP legislation.

2. Leave as is, paying normal PIPP benefits in the case of deliberate injuries caused using a motor vehicle.

Financial Impact
Minimal decrease.

Recommendation 43 – Time Limitation for Claims

Section 167(1)

An injured person has two years to report injuries sustained in a crash to qualify for benefits. This time period is very generous and the more time that passes after a crash, the more difficult it is to obtain information and properly treat the injuries.

Example

An injured person claims to have suffered a whiplash injury in a motor vehicle crash, but does not report the injury until 16 months after the crash. The optimal time period for treating the injury has long since passed.

Recommendation

Change the time limit for reporting claims to one year. This would allow for persons who unsuccessfully try to heal their injury before reporting a claim.

Other Alternatives

1. Change the time limit for reporting claims to six months to allow for proper rehabilitation.

2. Leave the time limit for reporting claims at two years.

Financial Impact

Minimal decrease.

Recommendation 44 – Top Up Workers' Compensation or Federal Worker Benefits

Sections 103, 206

PIPP allows suing for income loss, death and medical expenses for injured or deceased persons, in excess of defined limits, when they are covered by a first-payor plan, such as Workers' Compensation or the *Federal Workers' Act*. However, coverage is not topped up for those injured or deceased persons when their losses do not exceed PIPP limits.

Example

A school bus driver was killed while driving a bus. In addition to being a bus driver, he was also a full-time farmer. Workers' Compensation covers his bus driver wages, but does not cover his farming income. SGI paid the farming income on an ex-gratia basis. This situation could also occur for workers who are covered by the *Federal Workers Act*, such as RCMP or military personnel (the benefits under these plans are currently less than those provided under PIPP).

Recommendation

Provide coverage for all automobile claims, regardless of whether the injured person was working at the time of the crash, in return for payment by Workers' Compensation to SGI (542 claims in the last fiscal year, or less than 2% of all Workers' Compensation claims). There would be staffing and financial implications.

Other Alternatives

1. Allow top-up for any benefits available under first-payor compensation plans that are not as generous, such as Workers' Compensation. However, problems could arise with injured persons whose treatment program is directed by another agency (actuarially costed at $193,000/year).

2. Allow top-up only in the case of a death.

3. Leave as is (do not cover these losses).

Financial Impact

Minimal increase.

SECTION III – TYPES OF AUTO INJURY COMPENSATION PLANS

The following is an abbreviated comparison of injury compensation plans. There are four major types:

1. Under **pure tort** plans, the injured person is entitled to sue the person responsible for the crash for both economic loss (medical and rehabilitation expenses, lost wages and out-of-pocket expenses) and non-economic loss (commonly referred to as pain and suffering). The amount they can receive from the insurance company of the person responsible for the crash depends on the extent of their injuries and the amount of insurance in place. The person responsible for a crash cannot sue himself/herself for compensation if he or she is injured. Several U.S. states, including Montana and Wyoming, and two states in Australia, use a pure tort system. No Canadian jurisdictions currently use pure tort.

2. Under **pure no-fault** injury insurance plans, all persons injured are entitled to benefits, regardless of who was at fault for the crash. Those not responsible for the injury can sue, but only for excess economic loss or, in some cases, for economic loss caused by serious misconduct. Economic benefits are generally much greater than those provided under a tort plan and persons with similar injuries receive similar compensation. Benefits are paid more quickly than under a tort plan because settlement of the claim is not required before benefits can be paid. Compensation for non-economic loss (e.g., pain and suffering) is restricted. The idea behind no-fault injury systems is to reduce compensation for minor injuries and direct it towards those more seriously injured.

   Quebec, Manitoba and Saskatchewan are the only jurisdictions in North America to have adopted this form of compensation plan. New Zealand, Sweden, Finland and Israel have also adopted pure no-fault injury compensation. Certain U.S. states are commonly referred to as "no-fault" jurisdictions, but none are pure no-fault systems because they all allow some form of tort action for both economic and non-economic loss (pain and suffering). The U.S. "no-fault" jurisdictions are more properly characterized as "combination" systems (described below), containing both a no-fault and a tort component.

3. A small number of U.S. jurisdictions have adopted **choice no-fault** systems, where each motorist decides what kind of compensation plan he or she will buy. Motorists receive compensation, after an injury, in the form of tort, partial tort or no-fault injury (depending on the type of compensation purchased by the individual motorist). New Jersey, Kentucky and Pennsylvania use different forms of choice no-fault systems.

4. Many North American jurisdictions use a **combination of tort and no-fault** plans. There are three types of combination plans:

   a) **Add-on.** Under this form of combined plan, every injured person receives no-fault injury benefits and those who can find someone else responsible for the crash can sue for additional benefits. Saskatchewan had an add-on plan (with very low no-fault injury benefits) before PIPP was adopted. A tort add-on plan is used in British Columbia and other Canadian jurisdictions.

b) **Dollar threshold.** Under these plans, those who can find someone to sue can access tort if their total medical expenses exceed a pre-determined amount. Colorado and Hawaii use this type of plan.

c) **Verbal threshold.** Under these plans, those not responsible for their injuries can access tort if they satisfy a pre-determined verbal threshold (e.g., death or serious physical impairment). Ontario and Michigan use this type of plan.

Examples of injury compensation plans

British Columbia and Manitoba plans

The Insurance Corporation of British Columbia (ICBC) is a government-owned insurer similar to SGI, providing basic mandatory automobile insurance to all vehicle owners in B.C. ICBC uses a tort add-on plan similar to the plan in place in Saskatchewan before PIPP.

ICBC provides up to $150,000 for medical and rehabilitation expenses, up to $300 per week for wage loss and $7,500 for death benefits on a no-fault basis. Those not responsible for their injury can sue the responsible party for additional economic and non-economic losses. ICBC provides each vehicle owner with $200,000 third-party liability coverage for injuries caused to others, and $1 million of under-insured motorist coverage for injuries caused by an under-insured driver.

Manitoba has a no-fault injury plan similar to Saskatchewan's. The following summarizes the injury claims experience in Saskatchewan, Manitoba and B.C.:

	Saskatchewan	Manitoba*	British Columbia**
Injury Loss Cost per Vehicle (1998)	$188.85	$206.56	$524.50

* Source: Manitoba Public Insurance. Injury loss cost per vehicle for all insured vehicles, 1998-99 fiscal year.

** Source: ICBC 1998 Annual Report. Injury loss cost per vehicle includes 1998 claim costs plus development of prior years, but excludes internal adjusting expenses.

Ontario's verbal threshold plans

Since the late 1980s, Ontario has had four combination tort plans. Before 1989, Ontario had a tort add-on plan similar to Saskatchewan's old plan. It was reformed in 1989 for many of the same reasons as in Saskatchewan: inadequate benefits, rising injury costs and variation in compensation based on responsibility for the crash. In 1989, Ontario introduced a verbal threshold plan to bar the majority of tort actions in favour of improved no-fault injury benefits.

Since 1989, there have been three variations of the verbal threshold plan in Ontario, the latest introduced on Nov. 1, 1996. The latest two versions of the plan also introduced a deductible of $10,000 and $15,000 respectively, applied on the pain and suffering awards for persons who meet the threshold. Each plan has a different schedule of no-fault injury benefits, with varying income replacement benefits up to $1,000 per week, and medical and rehabilitation benefits for catastrophically injured persons up to $1 million.

The most important difference between the Ontario plans is the threshold definition. For example, Ontario's second plan defined a verbal threshold to allow access to tort if the injured person "sustained permanent serious disfigurement or permanent serious impairment of an important bodily function..." In contrast, the third Ontario plan increased no-fault injury benefits and relaxed the verbal threshold so that injured persons could access tort for pain and suffering if, "as a result of the use or operation of the automobile the injured person has died or has sustained (a) a serious disfigurement; or (b) serious impairment of an important physical, mental or psychological function." Increased costs under the third plan led to the latest revision in Ontario. The definition of verbal threshold under the fourth plan returned to the language used in the 1989 plan to restrict the number of persons meeting the threshold.

The following summarizes Ontario's injury claims experience for the different plans:

	Injury Loss Cost per Vehicle	Injury Claims per 100 Vehicles
Tort Add-On 1971 (1989 results)	$431.18	1.8
Verbal Threshold 1989 (1993 results)	$314.51	1.7
Verbal Threshold 1993 (1996 results)	$346.47	1.5
Verbal Threshold 1996 (1998 results)	$341.85	1.4

Source: Insurance Information Centre of Canada, Loss Development Exhibit, 1998-2

Michigan's verbal threshold plan

Michigan has a verbal threshold plan similar to Ontario's. An injured person (or their estate) can sue for both economic and non-economic compensation if the injury results in death, serious impairment of body function or permanent serious disfigurement. In contrast to the minimum liability limits required in Canada ($200,000 CDN), Michigan requires each vehicle owner to carry tort liability coverage of only $20,000 US per injured person and $40,000 US per accident. Michigan's no-fault injury benefits include unlimited medical and rehabilitation coverage, and up to 85% of wage loss for up to three years. Because the no-fault injury benefits are deducted from any tort settlement, there is little chance of collecting significant non-economic benefits from insurance companies for serious injuries.

Limitations of injury combination compensation plans

Limitations of tort add-on plans

Under tort add-on plans, all injured persons are entitled to no-fault injury benefits. Those who can find another person responsible for the crash can sue for additional economic and non-economic benefits (pain and suffering). There are difficulties with this approach:

1. One of the major criticisms of a tort add-on plan is that it discriminates among injured persons based on cause. While all motorists contribute, more or less equally, to these plans, only those whose injuries are caused by another can receive any meaningful amount of compensation because no-fault injury benefits are generally very low.

Thus, these types of plans create a variation of benefits, dependent on the cause of the injury and not the effect or severity of the injury. There are many examples under tort add-on plans of persons responsible for their own very serious injuries (e.g., single-vehicle rollovers) receiving far less compensation than persons suffering relatively minor injuries. In general, persons with relatively minor injuries receive more in total compensation than the economic loss they sustain in the crash because they also receive a payment for pain and suffering. Those seriously injured, or unable to sue for additional compensation, often receive less total compensation than the economic loss they suffer.

2. The issue of responsibility for a crash and finding someone to sue for compensation is not always clear-cut. However, it is common to have partial responsibility for a crash, meaning reduced compensation for the person injured. Injured persons spend a large amount of money in legal fees under tort add-on plans to determine fault and how much should be paid for their injuries. In addition, insurance companies incur expenses to defend these legal actions. Determining responsibility and negotiating the amount of claim payments is not particularly helpful to the injured person and uses funds that could be better spent providing economic benefits directly to the injured person.

3. For the person not responsible for the injury, the amount of compensation largely depends on the amount of insurance carried by the motorist responsible for the crash. A $200,000 limit of third-party liability coverage is inadequate for very serious injuries.

4. The priority of benefits under tort add-on plans is contrary to helping injured persons recover, with the greatest portion of funds spent on benefits least important to the restoration of health. In contrast to the objectives of the health plan, tort add-on plans promote illness behaviour and delay recovery of the injured person. Since funds are limited, benefits should be structured in a priority that promotes the early restoration of health status.

5. The timing of benefits under tort add-on plans does not promote recovery, because (other than for low-level no-fault benefits) there can be a delay of several years before the claim is settled and compensation paid. Clearly, injured persons require immediate access to funds to cover expenses and income replacement. An early start to rehabilitation improves the health outcomes for those injured and reduces the economic burden of automobile-related injuries on society.

6. The no-fault benefits under tort add-on plans are generally inadequate. For example, under Saskatchewan's old add-on plan, medical and rehabilitation coverage was limited to $10,000 and weekly income replacement benefits for long-term seriously injured persons were limited to $200 per week. Increasing the no-fault benefits of these plans would significantly increase the overall cost of the plan. The cost increase would consist of: (1) higher no-fault benefits; and (2) larger awards for pain and suffering. The increased cost from higher no-fault benefits is self-evident. The amount awarded for pain and suffering under tort add-on plans (with generous no-fault benefits) generally increases with the duration of a given claim. This is because injured persons are entitled to no-fault benefits covering medical expenses and lost wages and there is no incentive for them to close their claim.

7. The ongoing cost of tort add-on plans is prohibitive, as demonstrated by many examples including the old tort add-on plans in Saskatchewan, Manitoba and Ontario, and B.C.'s existing tort add-on plan. Under Saskatchewan's old tort add-on plan, the average annual increase in injury costs was about 14% between 1990 and 1994. The main reason for the prohibitive costs under tort add-on systems is that court settlements for pain and suffering tend to increase at a much greater rate than inflation.

Limitations of threshold plans

Under threshold plans, the number of injured persons who can access tort by suing the person responsible for the crash is limited. The injured person is entitled to no-fault injury benefits, and, if they meet the threshold, they are entitled to sue for additional compensation. These plans have the same limitations as tort add-on plans, as well as additional limitations:

1. A dollar threshold can often be met by building up the cost of the claim with additional diagnostic tests and procedures. Clearly, this is not in the interests of the injured person, the health system or motorists who fund the plan.

2. A verbal threshold is difficult to define. For example, part of Ontario's 1989 definition of verbal threshold provided access to tort if the injured person "sustained permanent serious disfigurement or permanent serious impairment of an important bodily function..." This definition is difficult to apply to each individual case. Additional expenses are incurred determining whether the injury was serious enough to meet the threshold, reducing the amount of funds available to help the injured person recover. Furthermore, multiple investigations and numerous medical consultations that force the injured person to prove his or her disability delay recovery.

3. The lack of uniformity in interpreting verbal thresholds is unfair and leads to variations in benefits. For example, what constitutes a "serious injury" is often difficult to judge.

4. Thresholds erode over time allowing more injured persons access to tort. The idea behind threshold plans is to limit access to tort and use the resulting savings to improve no-fault injury benefits. When judicial precedents erode the threshold, the premium payers of the plan face the financial consequences of both improved no-fault injury benefits, and significant tort compensation. An American study determined the major reason for increased costs in threshold no-fault injury jurisdictions in the U.S. was erosion of the threshold. The study found that, in 1977, 24% of claimants were able to file a liability claim, as well as a no-fault injury claim. By 1987, 40% of claimants were able to file a liability claim, as well as a no-fault injury claim – an increase of 66%. (Source: Robert H. Joost: Automobile Insurance and No-Fault Law 2D)

5. Some threshold plans apply a deductible (e.g., $10,000) to the pain and suffering payment of persons who meet the threshold. The most seriously injured (by virtue of meeting the threshold) must also pay the deductible, meaning they incur those expenses personally, before their insurance coverage begins. It is much fairer to pay a permanent impairment benefit to all individuals who are seriously injured.

Costs of injury compensation plans

The Cost of tort add-on and threshold systems

As noted, certain U.S. states are commonly referred to as "no-fault" jurisdictions. However, none are pure no-fault injury plans because all U.S. states allow some form of tort action for both economic and non-economic loss. American "no-fault" jurisdictions are more properly characterized as combination systems, containing both a no-fault injury and a tort component. Because of the limitations of add-on tort and combination systems, and the increasing cost of insurance under this approach to compensation, many states have repealed their so-called "no-fault" injury plans.

In Canada, many modifications to the different provincial automobile insurance systems have occurred since automobiles became such an important part of modern life. Most of these changes were the result of increasing costs and inadequate benefits under tort add-on and threshold systems.

In 1978, Quebec became the first jurisdiction in North America to implement a pure no-fault injury system. This system is similar to Saskatchewan's Personal Injury Protection Plan, providing a very high level of benefits for economic loss, coupled with benefits for non-economic loss in the case of permanent impairment. In contrast to all other plans in North America, the Quebec plan has remained stable for more than 20 years. Benefit levels are automatically indexed each year to increase with inflation. Perhaps one of the most revealing statistics about Quebec's system is the premium charged to fund a system with total annual benefits and expenses of close to $1 billion. In 1978, when the system was introduced, the owner of a private passenger car paid an annual premium of $99 – including $14 for the driver and $85 for the vehicle. By 1999, more than 20 years later, the annual premium had increased to only $142.

Actuarial costing of tort add-on and threshold plans

SGI's independent actuary costed tort add-on and threshold plans to compare with PIPP in Saskatchewan. The tort add-on system costed was one where all injured persons would continue to receive existing no-fault injury benefits and would also be allowed to sue the at-fault party under tort. The threshold system costed was one which would permit tort action for non-economic loss, as well as for the economic loss already allowed under the no-fault system, subject to a strong verbal threshold and a $10,000 monetary threshold. The following summarizes each plan:

	Tort Add-On	$10,000 Deductible, Verbal Threshold
Number of Additional Claims	2,200	0
Additional Costs in 2000	$195,630,000	$82,109,000
Additional Costs per Vehicle in 2000	$271	$114
Additional Costs per Vehicle in 2004	**$517**	**$217**

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SECTION IV – SGI CORPORATE STRUCTURE

SGI was created in 1945 and, over time, has evolved into three distinct operations:

- the Auto Fund, the province's compulsory auto insurance program;
- SGI CANADA, which sells property and casualty insurance products in Saskatchewan; and
- SGI CANADA Insurance Services Ltd. (SCISL), an expansion company which sells property and casualty insurance products outside the province.

Auto Fund
- is the province's compulsory auto insurance program
- operates on a break-even basis over time
- is financially self-sustaining
- does not receive money from nor pay annual dividends to the government

SGI CANADA
- competes with about 100 other companies in the insurance market in Saskatchewan
- offers property and casualty insurance products, such as home, farm, tenant, business
- pays annual dividends to the Crown Investment Corporation (CIC)

SCISL
- competes in the insurance market outside Saskatchewan
- offers non-auto property and casualty insurance
- currently sells insurance products in Manitoba and Ontario

SGI currently employs more than 1,600 people and works with a network of approximately 350 independent brokers in Saskatchewan (and 450 motor licence issuers, most of whom are brokers), as well as more than 50 SCISL brokers. The corporation operates 20 claims centres and five salvage operations in 13 Saskatchewan communities, and a SCISL branch office in Winnipeg, Manitoba.

The Auto Fund is similar to a not-for-profit corporation. It provides vehicle registration and insurance, driver's licences and related services to all Saskatchewan motorists. Over time, it has been granted significant regulatory, compensation and prevention functions. In its regulatory role, the Auto Fund provides services to ensure that drivers and vehicles are properly licensed. In its compensation role, the corporation provides insurance coverage for injuries and vehicle damage. It also invests in prevention and traffic safety initiatives to reduce the human, social and economic costs of vehicle crashes.

The corporation currently serves more than 665,000 Saskatchewan drivers and insures about 820,000 vehicles annually with an estimated $475 million in total revenue in 1999.

The Auto Fund operates very much like a trust fund for motorists. Every dollar collected in insurance premiums is used to pay for claims, or the administration of the program. The Fund is financially self-sustaining and operates on a break-even basis over time.

In 1946, SGI was empowered to administer *The Automobile Accident Insurance Act* (AAIA). This was the first time that the principle of compensation for injuries and death, regardless of fault, was legislated for vehicle crashes. In 1949, third-party liability coverage was added to meet the requirement being imposed in other North American jurisdictions that all motorists carry such coverage.

The AAIA insurance plan remained virtually unchanged, with the exception of increases in benefit and third-party liability levels, until 1995. Today, the insurance provided by the Auto Fund includes:

- coverage for damage to or loss of your vehicle subject to a deductible;
- $200,000 liability for property damage and/or injuries caused to another person; and
- injury benefits for all Saskatchewan residents injured in auto collisions, regardless of fault.

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- coverage for damage to or loss of your vehicle subject to a deductible;
- $200,000 liability for property damage and/or injuries caused to another person; and
- injury benefits for all Saskatchewan residents injured in auto collisions, regardless of fault.

SECTION V – COMPARISON OF INJURY BENEFITS ACROSS CANADA

The following two pages outline benefits available in jurisdictions across Canada to those injured in auto collisions. Today, the benefits available in Saskatchewan through the Personal Injury Protection Program (PIPP) compare favourably to most benefits available in other provinces and territories. If all of SGI's recommendations for improvements to PIPP are implemented, the program would offer the best auto injury benefits available anywhere in Canada.

COMPARISON OF INJURY BENEFITS ACROSS CANADA 1998*

Saskatchewan [3]	Nfld [2]/NS/PEI	Quebec [4,6]	Ontario [1,4]
COMPULSORY MINIMUM THIRD-PARTY LIABILITY			
$200,000 [5b]	$200,000 (Nfld [5a], NS/PEI [5b])	$50,000 [5c]	$200,000 [5b]
MEDICAL PAYMENTS			
$526,970/person; includes rehabilitation	$25,000/person, including rehabilitation, excluding health insurance plans; time limit 4 years	no time or amount limit; includes rehabilitation	$100,000/person ($1 million if injury "catastrophic"), including rehabilitation, excluding health insurance plans; attendant care $72,000
FUNERAL EXPENSE BENEFITS			
$5,270	$1,000	$3,650	$6,000
DISABILITY INCOME BENEFITS			
90% of net wages[†]; maximum income gross $54,893/year; 7-day wait; indexed ([†] net equals gross minus CPP, EI and taxes)	104 weeks partial disability; lifetime (PEI - to age 65) if totally disabled; maximum $140/week; 7-day wait; unpaid housekeeper $70/week, maximum 12 weeks	90% of net wages; maximum income gross $50,000/year; temporary 3 years; permanent lifetime; 7-day wait; indexed	80% of net wages up to $400/week, $185/week for those not employed (104 weeks maximum; longer if victim is unable to pursue *any* suitable occupation); 7-day wait for employed people, otherwise 26 weeks
DEATH BENEFITS			
$47,427 minimum or surviving spouse gets weekly benefits of 50% of the deceased's theoretical entitlement had he/she lived, plus 5% for each dependant under 21; if no spouse or dependants, $10,539 paid to estate; educational benefit, $31,618	death within 2 years; head of household $10,000 plus $1,000 each for all dependants beyond first; spouse $10,000; dependent child $2,000	death anytime; depends on wage and age; minimum $48,683; maximum $250,000 plus $23,123 to $45,198 to dependants according to age; if no dependants – $18,256 to parents	death within 3 years; $25,000 for spouse; $10,000 for surviving dependant or for loss of dependant
IMPAIRMENT BENEFITS			
scheduled up to $131,743		scheduled up to $137,210	
RIGHT TO SUE FOR PAIN AND SUFFERING			
no	yes	no	yes, if injury meets verbal threshold; deductible applies [7]
RIGHT TO SUE FOR ECONOMIC LOSS IN EXCESS OF NO-FAULT BENEFITS			
yes [8]	yes	no	yes [9]
ADMINISTRATION			
government (government and private insurers compete for optional and excess coverage)	private insurers	bodily injury – government; property damage – private insurers	private insurers

Notes:

1) Residents of Alberta, Manitoba and Ontario involved in accidents in Quebec can receive from their own insurer the equivalent to the benefits available to Quebec residents from the Société de l'assurance automobile du Québec. Similar arrangements were implemented June 1, 1998 for accidents involving Alberta "insureds" in Saskatchewan and Manitoba.
2) Accident benefits coverage is compulsory everywhere in Canada except Newfoundland.
3) Own vehicle damage coverage is compulsory in Manitoba and Saskatchewan.
4) Policyholders may purchase coverage for economic loss greater than maximum accident benefits.
5) This amount is available for any one accident. However, if a claim involving both bodily injury and property damage reaches this figure, payment for property damage would be capped at:
   a) $20,000 in British Columbia, Manitoba, New Brunswick, Newfoundland and Yukon; and at
   b) $10,000 elsewhere in Canada; except for
   c) Quebec, where liability limits relate to property claims within Quebec and to personal injury and property damage claims outside Quebec.

COMPARISON OF INJURY BENEFITS ACROSS CANADA 1998*

Manitoba [1,3,4,6]	Alberta [1]	British Columbia	New Brunswick
COMPULSORY MINIMUM THIRD-PARTY LIABILITY			
$200,000 [5a]	$200,000 [5b]	$200,000 [5a]	$200,000 [5a]
MEDICAL PAYMENTS			
no time or amount limit; includes rehabilitation	$10,000/person, rehab included, amounts from medical and hospital plans excluded; chiropractors $500/person per occurrence; time limit 2 years	$150,000/person, rehab included, excludes amounts payable under surgical, dental, hospital plan or other insurer	$50,000/person, including rehabilitation, excluding health insurance plans; time limit 4 years
FUNERAL EXPENSE BENEFITS			
$3,803	$2,000	$2,500	$2,500
DISABILITY INCOME BENEFITS			
90% of net wages; maximum income gross $58,500/year; 7-day wait; indexed	80% gross wages; maximum $300/week; 104 weeks temporary or total disability; 7-day wait; unpaid housekeeper $100/week, maximum 26 weeks	75% gross wages; maximum $300/week; 104 weeks temporary disability, lifetime total and permanent; 7-day wait; homemaker up to $145/week, maximum 104 weeks	104 weeks partial disability; lifetime if totally disabled; maximum $250/week; 7-day wait; unpaid housekeeper $100/week, maximum 52 weeks
DEATH BENEFITS			
death anytime; depends on wage and age; minimum $43,466; maximum $292,500 plus $20,646 to $38,032 to dependants according to age	death anytime; head of household $10,000 plus $2,000 for each dependant after first and 1% of total principal sum for 104 weeks, no limit; spouse $10,000; dependent child according to age – maximum $3,000	death anytime; head of household $5,000 and $145/week for 104 weeks to first survivor plus $1,000 and $35/week for 104 weeks for each survivor after first, no limit; spouse $2,500; dependent child according to age – maximum $1,500	death within 2 years; head of household $50,000 plus $1,000 each for all dependants beyond first; spouse $25,000; dependent child $5,000
IMPAIRMENT BENEFITS			
scheduled up to $108,664			
RIGHT TO SUE FOR PAIN AND SUFFERING			
no	yes	yes	yes
RIGHT TO SUE FOR ECONOMIC LOSS IN EXCESS OF NO-FAULT BENEFITS			
no	yes	yes	yes
ADMINISTRATION			
government (government and private insurers compete for optional and excess coverage)	private insurers	government (government and private insurers compete for optional and excess coverage)	private insurers

This is the most recent information currently available.

6) Lawsuits are not permitted with respect to injuries sustained in automobile accidents in Quebec and Manitoba. Victims and their dependants resident in those provinces are compensated by their government for their injuries whether or not the accident occurs in their home province. In Quebec, accident victims who do not reside there are entitled to compensation only to the extent that they are not responsible for the accident unless otherwise agreed between the Société de l'assurance automobile du Québec and authorities of the victims' place of residence; additional compensation may be available from their own insurers. Manitoba legislation contains similar provisions.

7) Lawsuit allowed only if injured person dies or sustains "permanent serious" disfigurement and/or impairment of important physical, mental or psychological function; the court is directed to assess damages, then deduct $15,000 ($7,500 if *Family Law Act* claim).

8) Injured person may sue only with respect to gross income losses that exceed $52,058/year; award is net.

9) Injured person may sue for 80% of net income loss before trial, 100% of gross after trial; also for medical, rehabilitation and related costs when injury is catastrophic.

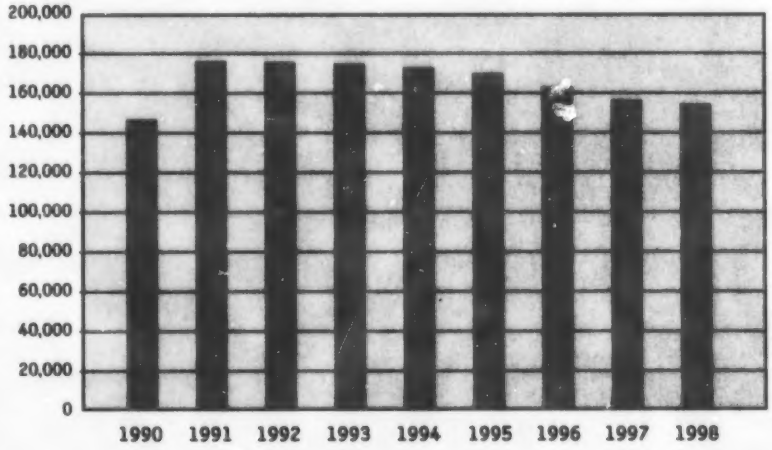
Source: Insurance Bureau of Canada

TRENDS

It has been argued that introduction of a no-fault injury insurance plan had a negative impact on the number and causes of collisions. Saskatchewan data since the introduction of PIPP shows little or no impact in both areas.

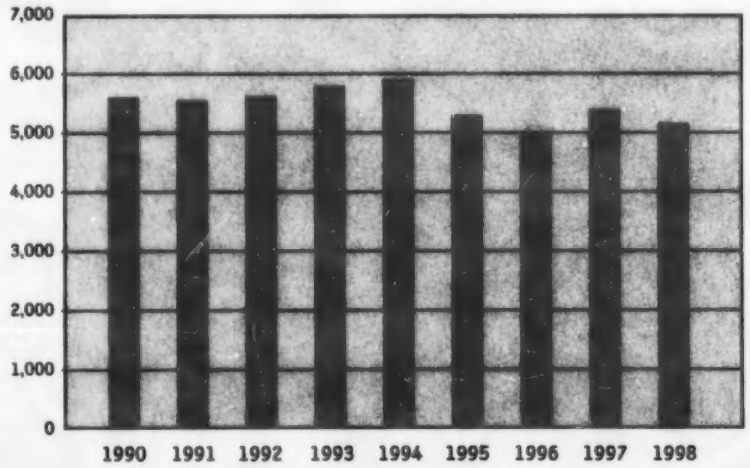
From 1990 to 1998, the latest year for which information is available, there has been a steady, national decline in the number of casualty collisions (all motor vehicle crashes reported by law enforcement which result in fatalities or injuries).

Casualty Collisions Nationally



This trend was not reflected in Saskatchewan in the early part of the decade. Casualty collisions in the province gradually increased from 5,446 in 1990 to 5,754 in 1994. In 1995, the number of casualty collisions reported by law enforcement dropped to 5,150 and remained at an average of about 5,072 per year from 1995 to 1998.

Casualty Collisions in Saskatchewan

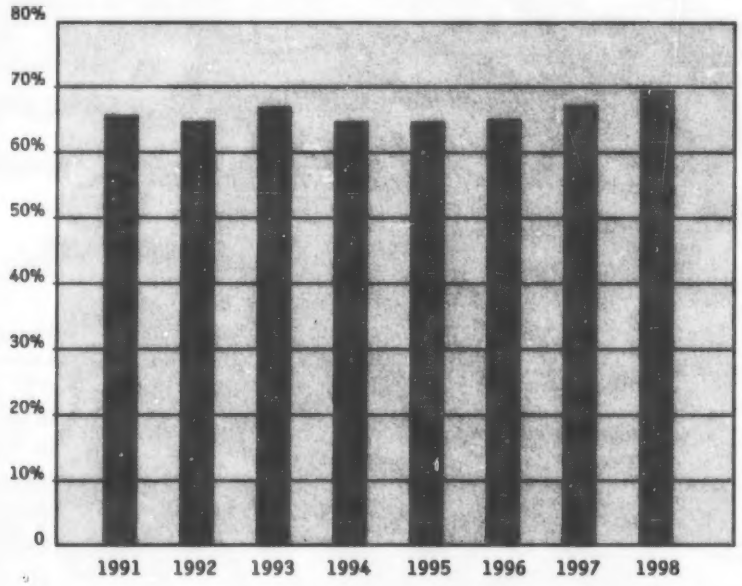


CONTRIBUTING FACTORS

The majority of collisions are a result of human factors, which range from driver inattention to driver confusion.

Between 1991 and 1998, the proportion of accidents in which human factors were cited fluctuated between 65 and 70%. For the period 1991 to 1994, prior to the introduction of PIPP, the average contribution of human factors to accidents was 66.1%. For the period 1995 to 1998, following the introduction of PIPP, the trend remained the same, at an average of 67.1%.

Contribution of Human Factors



Human factors as a cause of accidents 1991 to 1998 (police-reported)

According to information filed by law enforcement officers in Saskatchewan, and compiled in the *1998 Saskatchewan Traffic Accident Facts* report, driver inattention is the factor most likely to be a major contributing factor in auto collisions in this province. It was listed as a major contributing factor in 22.7% of all collisions in the province that year, more than twice as often as the next most frequent factor.

There were other major contributing factors, closely related to driver inattention, listed in the report. Driver distraction was named as a major factor in 2.2% of all collisions in 1998 in Saskatchewan. Driver inexperience or confusion was listed in 4.2% of collisions. Taken together, these three factors were cited in 29.1% of all auto collisions in Saskatchewan in 1998.

Driving is a complex task, requiring the driver to take in numerous pieces of information on a continuous basis, and requiring the driver to make numerous decisions. If a driver fails to notice an important piece of information, or makes an incorrect decision, an auto collision could be the outcome.

SECTION VII – KEY ISSUES WHERE NO CHANGE IS RECOMMENDED

In the months prior to the independent review of PIPP in Saskatchewan, SGI conducted a comprehensive internal review of the program. This internal review led to the formulation of 44 recommendations for improving PIPP, outlined in Section II of this report. SGI believes these recommendations, if implemented, would address the vast majority of customer concerns regarding the program.

There are, however, two important areas of customer concern where SGI is recommending no change. These are: (1) the seven-day waiting period for an income replacement benefit; and (2) benefits for impaired or otherwise criminally-convicted drivers. After much internal deliberation and discussion of alternatives, SGI has concluded that the current approach to these two issues remains the best approach, based on the following analyses.

Issue 1 – Seven-Day Waiting Period for an Income Replacement Benefit

Section 136(3)

A person who is entitled to an income replacement benefit is subject to a seven-day waiting period before receiving income replacement benefits. It is standard practice to have a deductible or waiting period in disability insurance plans, and this occurs in all provinces offering automobile insurance in Canada. An exception is Workers' Compensation which does not have a waiting period. The seven-day waiting period has been a cause of customer concern and the issue has been reviewed and other alternatives explored.

Where an individual is on an income support program, such as social assistance, that support continues through the seven-day waiting period. Other individuals rely on sick leave benefits through their workplace to cover lost income for the seven-day period. There may be hardship where an individual does not have sick leave benefits through their workplace. These individuals would see an income loss for the seven-day waiting period.

The reduction or elimination of the waiting period would result in an estimated 30% increase in the number of claims. While the claims would be relatively minor in nature as a result of missing fewer than seven days work, the human and financial resources required at SGI to administer the new claims would be significant.

In addition, reduction or elimination of the waiting period would be a barrier to recovery, as studies have proven that the most effective treatment for minor soft tissue injuries (which comprise more than 80% of injuries) is a return to normal activities, including work, immediately.

Example

A person sustains minor injuries in a crash. After three days off work, he/she is recovered and returns to work full time. The individual uses three days sick leave benefit to cover the income loss.

A person sustains minor injuries in a crash. After six days off work, he/she is recovered and returns to work full time. The individual has no sick leave benefits through their workplace and loses six days income.

Recommendation
Leave the seven-day waiting period for income replacement benefits. This is consistent with other disability insurers and prevents the introduction of a barrier to recover by encouraging a return to work as quickly as possible in the case of minor soft tissue injuries, which comprise 80% of injuries sustained in a crash.

Other Alternatives

1. If a person is seriously injured and hospitalized for more than two days, exempt them from the waiting period. This would not cover persons who are admitted overnight for observation, but would cover anyone with other than minor injuries. The difficulty with this option is benefits would be dependent on admission practices which vary around the province, making it difficult to administer fairly to injured persons.

2. Reduce the waiting period from seven to three days. While this would reduce financial hardship experienced by individuals with no sick leave benefits through their work, it would lead to an increase in the number of injury claims filed and a corresponding increase in administration costs.

3. Allow the seven-day waiting period to be claimed under economic loss provisions, deducting collateral benefits. Only not at-fault injured persons without other sick leave coverage would be compensated. As a result, injured persons would be compensated differently depending on the circumstances of the crash. This is inconsistent with one of the guiding principles of PIPP; i.e., to provide compensation regardless of fault. It would also encourage minor claims and introduce a barrier to recovery for those not at fault who do not have sick leave benefits through their workplace.

4. Cover the seven days with a "franchise clause." If an income replacement benefit is being paid 30 days after the crash, the seven days will be paid. Only those with more serious injuries would be covered. However, this would still involve a delay in replacing lost income for injured individuals without access to sick leave benefits through their workplace. It will also increase claim durations and costs.

Financial Impact
None.

Issue 2 – Benefits for Impaired or Criminal Drivers

Section 186
An injured person who is responsible for a crash, and who is convicted of being impaired and/or of other serious criminal offences relating to the crash, is not paid a permanent impairment benefit. All other benefits are paid. The rationale for paying other benefits is that it is in society's best interest to ensure these individuals are rehabilitated to their pre-crash level of productivity, and to ensure the injured person's family does not suffer as a result of the crash. One of the main philosophies underlying no-fault insurance is universality, whereby all injured persons are eligible for the same benefits. However, the public has expressed disapproval about providing benefits to impaired drivers. SGI does subrogate against impaired drivers for vehicle and property damage.

Examples
An impaired driver causes a crash, killing another person and seriously injuring him/herself. The injured person is entitled to income replacement, medical and rehabilitation benefits. If he/she were not entitled to these benefits, his/her spouse and children would be left without his/her income and be responsible for his/her expenses, and the family could end up relying on another social program. The parents of the person killed in the crash think it is a travesty that this person, who was driving while impaired and without regard to the terms of his/her insurance, is being paid an income.

A person who is slightly over the legal limit for alcohol rolls his/her vehicle on a country road and is seriously injured. In this case there would not likely be an argument against paying medical and income replacement benefits.

Recommendation
No change. Continue to deny only permanent impairment benefits to at-fault impaired and/or criminally convicted drivers. Allow the criminal justice system to mete out appropriate penalties.

Other Alternatives
1. Pay no benefits to impaired and/or criminally convicted drivers.

2. Deny both permanent impairment and income replacement benefits to impaired and/or criminally convicted drivers. This would protect the family from paying medical bills, but would leave them without the driver's income (which would be the same situation as if that person had been jailed).

3. Deny income replacement and permanent impairment benefits to at-fault impaired and/or criminally convicted drivers, only if there is no spouse or dependants.

Analysis
Under a pure no-fault philosophy, an impaired driver would be treated the same as anyone else injured in a motor vehicle crash (i.e., he or she would receive all benefits). Paying medical benefits is consistent with Saskatchewan's drinking and driving countermeasures, which treat alcoholism as a disease rather than a criminal intent. No other disability coverage or medical treatment is denied due to the circumstances of a crash. Denying any benefits to an impaired and/or criminally responsible driver is contrary to no-fault injury insurance's philosophy of universality, since denying these benefits could push the injured person and their dependants onto another social system. However, it is contrary to the principles of insurance to pay benefits to someone committing an illegal act.

To deny income replacement benefits could harm the injured person's spouse and dependants. It could be argued that if there is no spouse or dependants, it would be fair to deny the income replacement benefit to the injured person. Such a provision might partially satisfy those opposed to paying benefits at all. However, such a provision would be discriminatory (being based on the marital status of the injured person) and open to legal challenge.

Financial Impact
None.

SECTION VIII – SGI'S INJURY CLAIMS HANDLING PROCEDURE

When a person is injured in a motor vehicle crash, a Personal Injury Representative in the Regina or Saskatoon Injury Units, or in one of SGI's 11 branch offices, manages their injury claim.

Opening an injury file

When an automobile claim is reported to an Automobile Claims Adjuster, they ask if there were any injuries as a result of the crash. If there were injuries, the injured person will be asked to call the appropriate Injury Unit to report the injury.

If a person has suffered very serious injuries, such as a brain or spinal cord injury, a Social Worker at the hospital will call the Regina or Saskatoon office to inform SGI of the injury. In those circumstances, arrangements are made to see the injured person at the hospital. Injury Representatives also arrange to meet injured persons in their homes if that better suits the individual.

People with very serious injuries are referred to Injury Specialists. Injury Specialists have received extensive information and training on the condition and treatment of those catastrophically injured, and have developed close ties with organizations and personnel who will also assist the injured person in his or her recovery – including Acquired Brain Injury Outreach workers, the Saskatchewan Abilities Council, the Saskatchewan Association of Rehabilitation of the Brain Injured and the Canadian Paraplegic Association. Injury Specialists work with these groups to develop rehabilitation plans for seriously injured people.

Initial exchange of information

When an injury is reported, injury staff obtain relevant information from the injured person. The injured person is asked about their ability to work and carry out the activities of daily living – looking after themselves, their children (if applicable) and their home. An Injury Representative is assigned to assist the injured person. A package of information that includes an Application for Benefits, a PIPP benefits booklet and a letter outlining basic processes and information is provided to the injured person. The Injury Representative explains the benefits the injured person is entitled to receive, the processes involved in filing an injury claim, any rehabilitation programs available that may assist the injured person and ensures that their benefits can be provided as soon as possible.

Assisting recovery

The Injury Representative acts as a case manager, working with the injured person and their health care providers. The Injury Representative approves, co-ordinates and monitors the payment of benefits and rehabilitation services for the injured person in order to assist the injured person to recover to the fullest extent possible.

Implementation of the Early Intervention Program

As more than 80% of all crash-related injuries are soft tissue injuries, a specialized rehabilitation plan, the Early Intervention Program (EIP), has been established specifically to treat these types of injuries.

If the information from medical reports and the injured person indicates a soft tissue injury is not healing, the Injury Representative may, in consultation with the primary caregiver, refer the person to the EIP. At this stage, the EIP is explained to the injured person, and they are told SGI will cover the costs of required medical treatment under the program, including chiropractic, physiotherapy, massage and travel. SGI will also cover the costs of income loss, personal care and home or child care, if they are needed.

The EIP is implemented if, after six to eight weeks, the medical information and the information provided by the injured person show that he or she has not improved significantly. The injured person is referred to a secondary assessment team by the primary caregiver, or by the Injury Representative in consultation with the primary caregiver. The Injury Representative will discuss the need for the referral with the caregiver prior to making the referral.

The secondary assessment team provides recommendations in a report to the Injury Representative and the injured person's primary caregivers. The Injury Representative will assist the injured person, and his or her caregivers, in implementing the recommendations. If the primary caregiver has concerns about the recommendations of the secondary assessment team, the primary caregiver can raise those concerns with the secondary assessment team.

Tertiary assessment

After 12 weeks, if the injured person has still not returned to the function they had prior to the accident, they are referred to a tertiary assessment team. The referral is made by the Injury Representative, in consultation with the primary caregiver. Tertiary assessments are completed at "Fit For Active Living," at the Saskatoon City Hospital, or at the Functional Rehabilitation Program at Wascana Hospital in Regina. A report with recommendations is provided to the Injury Representative and the injured person's primary caregivers.

The injured person meets with the tertiary team after the assessment and is advised of the findings and recommendations. The Injury Representative will assist the injured person, and his or her caregivers, in implementing the recommendations. If the primary caregiver has concerns about the recommendations, he or she can raise them with the tertiary assessment team.

Medical consultants

Injury Representatives have access at any time to medical consultants to assist them in ensuring an injured person's rehabilitation is proceeding effectively. When a medical consultant reviews a file, he or she will make recommendations for changes to a treatment plan, if it is felt they are necessary. The Injury Representative will then discuss the recommendations with the injured person's primary caregiver, and work with the caregiver on any improvements to the treatment plan.

Because treatment plans are developed based on the best information available for rehabilitation of a specific injury, the injured person is expected to follow the recommendations of their treatment plan as developed by their caregivers. If the injured person does not agree with the treatment plan or a decision made by the Injury Representative, he or she may appeal the decision.

If the injured person lives in a rural community, they may have to travel to another location for treatment or for a secondary assessment. SGI will cover the costs of travel in those circumstances.

Termination of benefits

SGI may suspend, adjust or terminate benefits if the injured person, without valid reason, refuses to cooperate with the rehabilitation plan set out by their caregivers.

Conflict resolution

If there is a conflict between primary caregivers and the secondary or tertiary assessment or treatment teams, SGI will arrange a meeting with them and the injured person to try to reach a consensus. If this meeting is not successful, the file may be referred to one of SGI's medical consultants. The medical consultant will review all reports and information, and provide recommendations. If this review does not resolve the conflict, the injured person can appeal the decision.

SECTION IX – GLOSSARY OF INSURANCE TERMS

Benefits – the amount paid by an insurance plan.

Bodily injury – injury or damage to the physical body of an individual or the destroying of it. Does not include inanimate injuries such as hurt feelings, embarrassment, false arrest, libel, slander, etc.

Damages – a sum of money claimed or awarded as compensation for loss or injury.

Determination – the choice of an employment the injured person could have held prior to the accident, considering intent, education, experience and abilities; income replacement benefit will be based on this employment if the person is still not able to work after 180 days.

Economic loss – actual expenses, financial costs.

Liability insurance – the type of insurance which covers an insured for his legal liability for injuries or damages to others. Automobile liability insurance covers the insured's liability arising from the use and operation of a motor vehicle.

Losses incurred – all losses which happened within the time period, including both those that have been paid and others that have not been paid, but will become payable.

Loss reserve – for every claim made against an insurance company, that company must estimate the probable ultimate cost of that claim and set the sum of money aside in a "loss reserve." SGI tracks losses, or claims incurred, by calendar year and by loss year. Calendar-year claims are all the losses paid in that particular year – regardless of when the original claim occurred. For example, 1998 calendar-year claims include losses paid for injuries that occurred in 1998 and any payments made in 1998 for injuries that occurred prior to 1998. Loss-year claims include the losses incurred, both actual payments and loss reserves, for all the claims that occurred in that particular year – regardless of when the losses were incurred. For example, 1996 loss-year claims include losses incurred only for claims that occurred in 1996. In each subsequent year, the losses incurred for the 1996 loss year are updated to reflect the latest estimate of the losses arising out of those claims.

No-fault injury insurance – a form of insurance in which a person's financial losses resulting from an automobile accident injury, such as medical and rehabilitation expenses and lost income, are paid by the insurer regardless of who was at fault for the accident.

Non-economic loss – perceived loss, not supported by actual expenses; includes pain and suffering (see definition below).

Pain and suffering – effects on the nerves and brain as a consequence of injury, and distress not directly connected with any bodily condition.

Permanent injury or impairment – includes a permanent anatomical or physiological deficit, a permanent disfigurement or a permanent acquired brain injury.

Primary care – first level of rehabilitation, from a physician, chiropractor or physiotherapist.

Residual capacity – if an injured person can never return to their original employment due to their injuries, an employment the person is able to hold after rehabilitation.

Secondary care – second level of rehabilitation, from a team of medical practitioners, such as physicians, chiropractors and physiotherapists.

Soft-tissue injury – muscular injury; includes low back pain and whiplash (headache, pain and tenderness of the muscles supporting the head and neck, due to sudden bending or straightening of the neck).

Subrogation – the right of the insurance company to recover amounts payable by that company to the party not at fault, from the at-fault party.

Tertiary care – third level of rehabilitation, from a team including a physician, chiropractor, physical therapist, psychologist, occupational therapist; the team may also include a dietician, exercise therapist, family counselor, pharmacist, recreation therapist, registered nurse, social worker or vocational counselor.

Third party – a claimant under a liability policy, so called because he or she is not one of the two parties (insured and insurer) who has entered into the insurance contract which pays his or her claim.

Tort – a wrong, or a breach of duty, committed by some person as regards some other person, which gives rise to a cause of action at the hands of the injured party.

Sources: W. A. Jennings, L.L.B., Insurance Institute of Canada Glossary of Insurance Terms; John A. Yogis, Q.C., Canadian Law Dictionary; Blakiston's Gould Medical Dictionary.